Communications sent

384. The Special Rapporteur transmitted to the Government of Israel allegations he had received concerning violations of the right to life of 40 persons, including 10 minors and one woman. Ten cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

385. The Special Rapporteur sent three urgent appeals to the Government of Israel in which he expressed concern at the killing of 33 persons (names available at the Secretariat), allegedly by members of the Israeli security forces who resorted to excessive use of force, in the Occupied Territories between December 1992 and February 1993. The Special Rapporteur urged the Israeli authorities to take all necessary steps to prevent such incidents (7 January, 11 February and 5 April 1993).

386. The Special Rapporteur also transmitted to the Government of Israel the following cases of:

(a) Deaths in custody, allegedly as a result of ill-treatment: Mustafa Akkawi, in Hebron central prison; 17-year-old Samir Omar, after having been tortured in Gaza central prison; Muhammad 'Id Hazem, in Hebron central prison; Mustafa Mahmud Mustafa 'Abd-Jadi Barakat, in Tulkarem detention centre; Ayman Sa'id Hasan Nassar, after having been tortured on the way to and in Ashkelon prison;

(b) Killings by members of the Israeli security forces, allegedly in excessive use of force: Ahmad Mustafa As'ad Daqqah Al-Kikh and Amin Mohammad Qasem Rahhal.

Communications received

387. The Government of Israel provided the Special Rapporteur with replies to two of the cases transmitted in 1993 (30 June 1993):

(a) With regard to the death in custody of Mustafa Akkawi, the authorities reported that, according to the investigation carried out, his death was not attributable to an offence but due to natural causes. However, the prison doctor had not acted in accordance with professional norms of behaviour and the General Security Service officer on duty did not act in accordance with what was expected of him under the circumstances. The State attorney had recommended disciplinary measures against them;

(b) With regard to the death in custody of Hazem Eid, the Government of Israel stated that the police investigation had established that he had hung himself with a noose, without the involvement of any other person.

388. The Government of Israel also provided information with regard to an urgent appeal sent by the Special Rapporteur in 1992 on behalf of Ahmed Salman Musa Qatamesh (see E/CN.4/1993/46, para. 382), informing him that neither the detainee nor his wife had been subjected to torture or ill-treatment, and that he was provided due medical attention (30 June 1993).

Follow-up

389. The Special Rapporteur addressed a follow-up letter to the Government of Israel in which he requested additional information on the investigations carried out to clarify the deaths in custody of Mustafa Akkawi and Hazem Eid, in particular, in what manner the prison doctor and security personnel had failed to fulfil their duties and how the noose had got into Hazem Eid's cell.

Observations

390. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Israel in providing him with the above-mentioned replies. However, he remains concerned at persistent reports of deaths as a result of excessive force, particularly in the Occupied Territories. The Special Rapporteur urges the Israeli authorities to take all necessary measures to prevent such incidents from happening in the future and to ensure full respect for the restrictions on the use of force as set forth in a number of international instruments governing the use of force and firearms by law enforcement officials. He hopes that progress in peace negotiations between the Government of Israel and the Palestine Liberation Organization will create a climate more favourable to the protection of the right to life and encourages both parties to adopt measures aiming at the prevention of further acts of violence leading to loss of lives. Such issues should be addressed in the framework of the negotiations.

Jamaica

Communications sent

391. The Special Rapporteur sent an urgent appeal to the Government of Jamaica after being informed of death threats by prison personnel against Randolph Barette and 25 other inmates of St. Catherine's district prison, Spanish Town, after 4 prisoners were killed during disturbances in the jail on 31 October 1993 (11 November 1993).

Communications received

392. The Government of Jamaica provided the Special Rapporteur with information concerning the cases of Earl Pratt and Ivan Morgan, transmitted to the authorities in 1991 by the then Special Rapporteur, Mr. Wako. The Government reported that, at the time of the reply (15 February 1993), a petition filed with the Judicial Committee of the Privy Council had not yet been considered.

Observations

393. The Special Rapporteur has recently been informed about the judgement passed by the Lords of the Judicial Committee of the Privy Council, the highest court for the member States of the Commonwealth, in the cases of Earl Pratt and Ivan Morgan on 2 November 1993. In this judgement, the Lords concluded that in any case in which execution is to take place more than five years after sentence there will be strong grounds for believing the delay is such as to constitute "inhuman or degrading punishment or other treatment"

and advised Her Majesty that the death sentences against Earl Pratt and Ivan Morgan be commuted to life imprisonment. Observers have stressed the bearing of this decision on a large number of cases in various Commonwealth countries where prisoners have been on death row for more than five years.

Kenya

394. The Special Rapporteur received information according to which two investigations - one sponsored by the National Council of Churches of Kenya and another by a parliamentary committee - had concluded that a considerable portion of those killed during inter-ethnic clashes in western and central Kenya during the first months of 1992 had been victims of extrajudicial executions. A group called "Kalenjin warriors", allegedly closely linked to senior officials of the Government and the Kenya African National Union (KANU), was indicated as one of those responsible for the killings. The committee recommended that allegations against certain named government and KANU officials, including the Vice-President, be investigated.

395. According to the information received, in October 1992, the full Parliament, composed solely of KANU members, rejected the report by the committee. To date, no action is said to have been taken to bring to justice any of the officials allegedly responsible.

Communications sent

396. The Special Rapporteur transmitted to the Government of Kenya information he had received concerning the alleged failure of the authorities to carry out exhaustive and impartial investigations into the killing, in February 1990, of former Minister Robert Ouko, and into the extrajudicial executions, allegedly by anti-riot police, of Omar Khalid Alimedi, Said Qalatin and "Kidochi".

397. The Special Rapporteur also communicated to the Government of Kenya the concerns summarized above and asked to be provided with comments and information regarding these allegations.

Communications received

398. The Government of Kenya forwarded replies to the cases brought to its attention and informed the Special Rapporteur that the case of Robert Ouko was before the courts (28 July 1993). As regards the alleged extrajudicial killings by anti-riot police during a demonstration in Mombasa, the Government stated that the police were forced to use firearms after the demonstration had become unruly and riotous and the demonstrators had attacked them with stones, sticks, petrol bombs and other crude weapons. Inquests were opened into the death of three persons (6 August 1993).

Follow-up

399. The Special Rapporteur sent a follow-up letter to the Government of Kenya in which he expressed appreciation at the willingness to cooperate shown by the authorities and asked to be provided with further details concerning the inquest into the deaths of three persons during demonstrations in Mombasa and any steps taken to prevent similar incidents from happening again. In the

same letter, the Special Rapporteur referred to information provided by the Government of Kenya in October 1992 concerning three cases transmitted in 1992 (see E/CN.4/1993/46, para. 389). The Special Rapporteur inquired about the current status of those investigations.

Kuwait

400. The Special Rapporteur received reports indicating that proceedings before the Kuwaiti State Security Court leading to the imposition and subsequent execution of death sentences did not conform to internationally recognized fair trial standards.

401. Concern was expressed at alleged violations of the right to an adequate defence. In particular, during pre-trial detention, defendants before the State Security Court were said to have been denied the right to prompt access to their lawyer, the right to challenge the lawfulness of their detention before a court and to obtain their release if the detention was unlawful. In some cases, it was reported that confessions were extracted under duress. It was alleged that convictions were based on such confessions, on written evidence not made available to defendants or their lawyers, or on hearsay testimony of secret witnesses. In addition, the Special Rapporteur was informed that those tried before the State Security Court were denied the full right to appeal. While defendants in ordinary criminal cases are entitled to a review by the Court of Appeal on issues of fact and law followed by a further review of possible legal errors by the Court of Cassation, those tried by the State Security Court were said to be limited to a review of their convictions by the Court of Cassation.

Communications sent

402. The Special Rapporteur transmitted to the Government of Kuwait two urgent appeals upon receiving information that the following 16 persons were at imminent risk of execution after having been sentenced to death by the State Security Court: Ghaleb Abd al-Majid al-Turki, Muhsin Shawkat Taher Hussain, Huda Mustafa Imam, Khalifa and Siham Ibrahim Hussain Ali (28 May 1993); 'Imam al-Din Mahmud Nimr and 9 others (names available at the Secretariat) (20 June 1993); Walid Jassem Mahdi (29 June 1993).

Communications received

403. The Government of Kuwait provided a reply concerning the above-mentioned cases and informed the Special Rapporteur that, with the exception of Huda Mustafa Imam, who was tried *in absentia*, all were arrested, detained and remanded in custody pending trial after their statements in their own defence had been heard and checked. They had an opportunity to lodge a protest against the order for their remand in custody before the President of the State Security Court or one of its members. They were given the opportunity to secure legal counsel. The death sentences were based on clear and incontrovertible evidence, none of which was extracted under any form of coercion. Sentences passed *in absentia* are subject to appeal through the objection procedure and the cases must then be retried by the State Security Court in the presence of the accused. Sentences passed in the presence of the accused are also subject to appeal in cassation. Review of death sentences by

the Court of Cassation is mandatory. At its hearing on 10 August 1992, the Court of Cassation commuted the sentence of Muhsin Shawkat Tahir Hussein to life imprisonment. On 1 March 1993, the Court decided that it could not consider a review of the sentence passed on Huda Mustafa Imam in absentia until she had been notified of that sentence and give. an opportunity to lodge an appeal through the objection procedure. At the time of the reply, all other cases were still being considered by the Court of Cassation (30 September 1993).

Observations

404. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Kuwait. However, he remains concerned that in proceedings before the State Security Court, defendants do not benefit fully from the right to appeal as set forth in the pertinent international instruments, since they are deprived of a stage of appeal which fully reviews the case, both with regard to facts and legal aspects. This full appeal procedure is, however, provided for in ordinary criminal proceedings. In this context, the Special Rapporteur wishes to stress that in trials leading to the imposition of capital punishment all safeguards and guarantees for a fair trial must be fully respected. Accordingly, the Special Rapporteur calls upon the Government of Kuwait to provide for full appeal procedures in trials before the State Security Court and to ensure that those facing the death penalty also benefit fully from all other safeguards and guarantees as contained in the pertinent international instruments.

Kyrgyzstan

Communications sent

405. The Special Rapporteur sent an urgent appeal to the Government of Kyrgyzstan after being informed about the imminent execution of the death sentence imposed upon Grigory Abramov (15 April 1993).

Communications received

406. At the time of the preparation of the present report, no communications had been received from the Government of Kyrgyzstan.

Lebanon

Communications sent

407. The Special Rapporteur transmitted to the Government of Lebanon allegations he had received according to which eight unidentified civilians had been killed when security forces opened fire on participants in a demonstration in what was described as an act of excessive use of force (29 July 1993).

Communications received

408. At the time of the preparation of the present report, no communication had been received from the Government of Lebanon.

Lesotho

Communications received

409. The Government of Lesotho provided the Special Rapporteur with a reply concerning four cases transmitted in 1992 (see E/CN.4/1993/46, paras. 394-396) and informed him that investigations had been opened into all of them and, at the time of the reply, were still under way (5 February 1993).

Follow-up

410. In response to this reply, the Special Rapporteur sent a letter to the Government of Lesotho in which he expressed his appreciation of the willingness to cooperate shown by the authorities, and requested to be provided with updated information on the progress of the investigations.

Liberia

411. The Special Rapporteur has received alarming reports about violations of the right to life in the context of the armed conflict opposing the Armed Forces of Liberia (AFL), the United Liberation Movement for Democracy in Liberia (ULIMO) and the National Patriotic Front of Liberia (NPFL). Since the outbreak of the conflict, tens of thousands of civilians are said to have lost their lives. All parties to the conflict were reported to be responsible for extrajudicial, summary or arbitrary executions of persons whom they suspected to be active fighters or sympathizers of either the Monrovia-based Government or the NPFL. Concern was also expressed at the possible involvement of soldiers of the peace-keeping force in Liberia of the Economic Commission of West African States (ECOWAS).

412. The Special Rapporteur received reports of particular gravity concerning the massacre of up to 600 people at a camp for displaced people at Harbel, near Monrovia, on 6 June 1993. A panel of inquiry was sent by the Secretary-General to establish the facts, to examine allegations of responsibility and to make recommendations.

Communications sent

413. The Special Rapporteur sent a letter to the Government of Liberia after he had been informed about the outcome of the investigations carried out by the panel of inquiry into the Harbel massacre. The panel concluded that the killing of nearly 600 displaced persons at Carter Camp was planned and carried out by soldiers of the Armed Forces of Liberia. Fourteen others were murdered by AFL soldiers at another location called Camp A, in walking distance of Carter Camp. The panel had also collected evidence indicating individual responsibility of three members of the military. The Special Rapporteur appealed to the Government to carry out full, independent and impartial investigations into the Harbel massacre with a view to identifying all those responsible and bringing them to justice, regardless of their rank, office or position. He also urged the authorities to take adequate steps to prevent such incidents from happening again in the future, and to compensate the families of the victims.

Communications received

414. At the time of the preparation of the present report, no communications had been received from the Government of Liberia.

Observations

415. The Special Rapporteur would like to express deep concern at massive violations of the right to life in Liberia. However, with regard to this country, he finds himself in the position where reports of such violations can be found almost daily in the mass media, but where very little information has come before him which would enable him to act according to his mandate's procedures. The Special Rapporteur wishes to note, however, that he has recently been informed of an initiative taken by the Special Representative of the Secretary-General to Liberia with the view to establishing a human rights component within the United Nations Observer Mission in Liberia (UNOMIL). The Special Rapporteur would like to indicate his readiness to cooperate in such an effort in any manner that may be considered appropriate, including through a visit to Liberia with the objective of obtaining first-hand information on the situation in the country and making recommendations for better protection of the right to life.

Malawi

416. The Special Rapporteur received a number of reports and allegations concerning violations of the right to life in the context of the campaign preceding the referendum of 14 June 1993 which has led to the end of the one-party system in Malawi. Various supporters of the institution of multi-party democracy had reportedly been victims of death threats and acts of harassment, and in some cases even extrajudicial execution. Those responsible for violations of the right to life were said to have been the police and security forces, the para-military Malawi Youth League and supporters of the Malawi Congress Party (MCP), which had held the monopoly of political power for 29 years. On several occasions, the security forces were said to have opened fire indiscriminately against participants in peaceful demonstrations. The outcome of the referendum, however, and the fact that on 29 June 1993 the Malawi Parliament, though restricted to the ruling MCP, changed the Constitution to allow opposition parties, have been noted by several observers as positive steps towards increased protection of human rights.

417. The Special Rapporteur also received a number of reports concerning procedural shortcomings that were said to affect trials leading to the imposition of the death penalty. Such trials were reportedly held before "Traditional Courts", which had originally been established by the British colonial authorities for minor offences and later extended to rape, murder and treason. According to the information received, it is incumbent on the prosecution to decide whether a case is heard before the High Court system or the "Traditional Courts". The bench of the latter is said to consist of four chiefs, i.e. local administrative officers, appointed by the President and removable by him, as well as one qualified lawyer who writes the judgement.

418. Allegedly, defendants before "Traditional Courts" have no right to legal representation and do not receive an advance summary of the

prosecution evidence in order to prepare their defence. The Traditional Courts (Procedure) Rule reportedly allows the defendant to call witnesses in his or her defence. However, in the trial of Orton and Vera Chirwa in 1983, this right was said to have been denied. In another case, it has been alleged that three anonymous letters were accepted as evidence. Discretion as to the right to appeal reportedly lies entirely with the Minister of Justice, and appeals may be lodged only within the "Traditional Court" system. Concern has been expressed that these procedural shortcomings may seriously affect the safeguards of those facing the death penalty, as provided for in several international human rights instruments.

Communications sent

419. The Special Rapporteur transmitted to the Government of Malawi allegations he had received concerning violations of the right to life of more than 42 persons. Over 40 of them were said to have been extrajudicially executed while exercising their right to freedom of opinion and expression, peaceful assembly and association.

420. The Special Rapporteur sent an urgent appeal to the Government of Malawi after being informed of the imminent execution of the death sentence, imposed by the Central Region Traditional Court, upon Foster Azele Mlombwa, former MCP chairman for Dedza (27 August 1993).

421. The Special Rapporteur also transmitted to the Government of Malawi allegations he had received concerning alleged death threats and attempts on the life of Reverend Emmanuel Chinkwita Phiri and the killing of at least 40 unidentified participants in a demonstration for multi-party democracy, when police were said to have opened fire against them.

Communications received

422. At the time of preparation of the present report, no communications had been received from the Government of Malawi.

Follow-up

423. The Special Rapporteur sent a follow-up letter to the Government of Malawi in which he requested to be informed about the progress of the investigations into the alleged extrajudicial execution of Mkwapatira Mhango (see E/CN.4/1993/46, para. 406). In September 1992, the Government of Malawi informed the Special Rapporteur that the case had been referred to the appropriate authorities.

Observations

424. The Special Rapporteur is concerned at the reports about grave limitations on safeguards and guarantees to protect those facing capital punishment in Malawi. Without wishing to interfere with the manner in which a State may decide to organize its judicial system, the Special Rapporteur wishes to stress once again that trials leading to the imposition of death sentences must conform to the highest standards of independence, competence, objectivity and impartiality of the judges and all safeguards and guarantees for a fair trial must be fully respected, in particular as regards the right to defence and the right to appeal and to seek pardon or commutation of the

sentence. He calls upon the authorities to take appropriate steps so as to ensure that legislation and practice in Malawi conform to the international standards relating to capital punishment and protecting those who may face death sentences.

Malaysia

425. The Special Rapporteur received reports expressing concerns at the presumption of guilt contained in the Dangerous Drugs Act, 1952. Under this law, suspected drug traffickers are presumed guilty until they can prove their innocence. When drugs are found concealed in a bag, box, home, office, shop or car belonging to or being used by the accused, he is presumed to have prior knowledge of the presence of the drugs. It is reportedly a common practice for the police to give cash rewards to informers and agents provocateurs who are able to entrap suspected drug traffickers. Evidence provided by such informers or agents provocateurs is allegedly readily admissible in court for the prosecution of the accused. The death penalty is mandatory for those convicted of drug trafficking.

Communications sent

426. The Special Rapporteur transmitted to the Government of Malaysia allegations he had received concerning the execution by hanging of Hasim Escandar, sentenced to death after having been tried and convicted under the Dangerous Drugs Act, 1952.

Communications received

427. At the time of the preparation of the present report, no communications had been received from the Government of Malaysia.

Observations

428. The Special Rapporteur wishes to express concern at the presumption of guilt contained in the Dangerous Drugs Act, 1952, which constitutes a clear breach of the fundamental right of every defendant to be presumed innocent until guilt is proven through a fair trial, providing for full respect for the right to defence and appeal. Furthermore, the mandatory character of capital punishment for those convicted of drug-trafficking is most disturbing, since it precludes the consideration of any mitigating circumstances. The Special Rapporteur calls upon the Government of Malaysia to review its anti-drug legislation so as to make it conform to the international instruments governing the application of capital punishment and providing for safeguards and guarantees for those who may face death sentences.

Mauritania

429. On 29 May 1993, the Mauritanian Parliament passed a law which grants total amnesty to all members of the security forces who committed offences during a three-year period between 1989 and 1992. During this time, at least 400 black Mauritanians were said to have been extrajudicially executed and thousands of others detained for lengthy periods. Many others allegedly disappeared.

430. According to the information that has come before the Special Rapporteur, the majority of these deaths was due to torture and other cruel and inhuman treatment, including extremely harsh conditions of detention. Most victims were said to have been army officers and civil servants belonging to the Pular, Soninké and Wolof ethnic groups from the southern parts of the country. They had allegedly been rounded up after mass arrests in the cities of Nouakchott and Nouadhibou. The families of the victims were said to have repeatedly requested the authorities to provide them with explanations as to the fate of these persons. However, despite political reforms which included the first multi-party elections in 1992, no official investigation was reported to have been opened into human rights violations.

431. Concerns were expressed that the recent amnesty, announced by the Mauritanian authorities as a sign of national harmony, constitutes a serious breach of the Government's obligation under international law to carry out investigations into all human rights violations and to grant compensation to the families of the victims.

Communications sent

432. The Special Rapporteur transmitted these concerns in a letter to the Government of Mauritania, in which he invited the authorities to provide him with comments and observations.

Communications received

433. At the time of the preparation of the present report, the Government of Mauritania had not provided a reply to the aforementioned letter.

434. A reply was received on 30 December 1992 concerning alleged extrajudicial executions brought to the attention of the Government of Mauritania in 1991 by the then Special Rapporteur. The Government explained that investigations into the allegations had shown that incidents involving certain army units had taken place in late 1990, but nobody had been killed by soldiers in cold blood; the military commanders involved had been punished. Since July 1991, the new Constitution protected all citizens against abuses.

Observations

435. The Special Rapporteur wishes to express his appreciation of the willingness to cooperate shown by the authorities of Mauritania. However, he stresses that a State cannot be considered to have carried out its obligation to investigate allegations of human rights violations simply by passing an amnesty law. While it may be politically opportune, under certain circumstances, to exempt from punishment those responsible for certain acts, this must be a very exceptional measure and does not mitigate the Government's obligation to conduct exhaustive and independent inquiries to establish the facts and responsibilities, and to grant compensation to the victims or their families. In the case of Mauritania, it is particularly disturbing that the amnesty law was passed at a moment when such inquiries had been initiated and that, according to the information at the Special Rapporteur's disposal, the authorities have not indicated their willingness to reveal the facts nor any

disposition to compensate the victims' families. The Special Rapporteur calls upon the Government of Mauritania to comply with its obligation under international law to do so.

Mexico

436. The information that has come before the Special Rapporteur indicates that extrajudicial, summary or arbitrary executions continue to occur and that, in many cases, their perpetrators continue to enjoy impunity. The National Commission on Human Rights has reportedly investigated a number of such violations and confirmed that human rights abuses had indeed taken place. However, its recommendations, particularly concerning the arrest of those identified as responsible, were very often said to have not been followed.

Communications sent

437. The Special Rapporteur transmitted to the Government of Mexico allegations he had received concerning violations of the right to life of seven persons:

(a) One case concerned the alleged death in police custody, as a result of torture and ill-treatment, of Pedro Lenin Vilchis Domínguez;

(b) The following persons were reportedly killed in the context of land conflicts: Mateo Vargas Nava, Isidro Vargas Nava and Bulmaro Vargas Najera; Sabino Díaz Osorio and Rodrigo Gómez Zamorano. In these cases, as in the case of the reported murder of José Ramos Núñoz, an indigenous peasant, those responsible for the killings are said to be closely linked with representatives of the local authorities. Arrest warrants against them were reportedly issued but not carried out. In addition, an eye-witness to the killing of Mateo Vargas Nava was said to have been threatened with death by judicial police if he presented his testimony to the authorities.

Communications received

438. The Government of Mexico provided the Special Rapporteur with a reply concerning the case of Pedro Lenin Vilchis Domínguez, informing him that the National Human Rights Commission had opened an inquiry into the case and, at the time of the reply, was studying information brought to its attention by judicial authorities of the Federal District (15 June 1993).

439. In the same letter, the Government of Mexico forwarded information concerning four cases transmitted by the Special Rapporteur in 1992. The National Commission on Human Rights had initiated investigations into all of the cases and had issued a number of recommendations to the effect that the conduct of members of the police as well as other State representatives should be examined to establish their responsibility for the killing of Víctor Manuel Oropeza Contreras (see E/CN.4/1993/46, para. 423) and of Tomás Diego García during a police operation in the Indian community of La Trinidad Yaveo (see E/CN.4/1993/46, para. 422). Recommendations concerning the arrest of certain officers had not yet been carried out. With regard to the alleged death threats against Misael García Santiago during this operation, the Government of Mexico informed the Special Rapporteur that the National Human

Rights Commission could not find any information in its database. As concerns the killing of Francisco Quijano García (see E/CN.4/1993/46, para. 424), the National Human Rights Commission had recommended that criminal proceedings be opened against the police officers responsible for the extrajudicial killing of his sons Erick Dante, Jaime Mauro and Héctor Ignacio Quijano Santoyo, but did not make any pronouncement concerning his own disappearance and subsequent killing.

Follow-up

440. The Special Rapporteur sent a follow-up letter to the Government of Mexico in which he expressed his appreciation for the willingness to cooperate shown by the Mexican authorities. With reference to the above-mentioned replies, the Special Rapporteur requested to be informed about the functioning of the National Human Rights Commission and, in particular, whether its recommendations were binding. He also inquired specifically about the measures, judicial or disciplinary, adopted with regard to those police agents identified by the National Human Rights Commission as responsible for extrajudicial killings, and whether any compensation had been granted to the families of the victims. Furthermore, the Special Rapporteur asked to be informed about the database referred to in the reply, and about the reasons why recommendations to arrest certain persons had not been put into practice.

441. In the same letter, the Special Rapporteur also referred to a reply received from the Government of Mexico in 1992 concerning alleged death threats against lawyer María Teresa Jardí (see E/CN.4/1993/46, paras. 420 and 425) and requested to be provided with updated information about the progress of the investigations carried out as well as the measures adopted to ensure her protection.

Observations

442. The Special Rapporteur notes with concern that in a number of cases, recommendations made by the National Human Rights Commission appear not to be followed by the authorities. In particular, this seems to apply quite often with regard to recommendations to detain persons identified by the Commission as responsible for human rights violations. The Special Rapporteur calls upon the competent authorities to ensure that such recommendations are followed and to ensure that all perpetrators of human rights violations are brought to justice.

Morocco

443. The Special Rapporteur received information according to which, one year after the dismantling of the secret prison at Tazmamert and the release of most of the remaining 30 surviving inmates, no investigations had been initiated into the deaths of 33 persons detained at Tazmamert. It was reported that the victims had been held in total isolation and had died of diseases caused by inadequate food and hygiene, as well as neglect and lack of medical attention. Furthermore, the Special Rapporteur was informed that the families of the victims had not been informed of the causes of the deaths of their relatives, and that they had not been granted any compensation.

Communications sent

444. The Special Rapporteur sent a letter to the Government of Morocco in which he transmitted the case of Abdesslam Belkaïd, who allegedly died in Kenitra central prison due to lack of medical attention.

Communications received

445. The Government of Morocco provided the Special Rapporteur with a reply to this letter and stated that the competent authorities had carried out investigations into the case and had established that the prison registry number contained in the communication by the Special Rapporteur did not correspond to the name of Abdesslam Belkaïd. The authorities requested the Special Rapporteur to provide them with the exact name of the person who allegedly died in Kenitra central prison on 27 January 1993 (14 September 1993).

Observations

446. The Special Rapporteur expresses his appreciation of the willingness to cooperate shown by the Moroccan authorities. While contacting the source, in accordance with the follow-up procedures recently initiated, the Special Rapporteur notes that the fact that the registry number does not correspond to the name of the prisoner indicated should not impede the authorities from finding out whether any prisoner by that name had died on or around 27 January 1993 at Kenitra central prison, or whether the prisoner identified through the registry number, although bearing a different name, died due to lack of medical attention.

Myanmar

447. The reports that have come before the Special Rapporteur indicate that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Myanmar.

448. As in former years, such reports contained allegations of gross human rights violations committed by the Myanmar security forces against Muslims in Rakhine (Arakan) State, also referred to as Rohingyas, in what was described as a general pattern of repression against religious or ethnic minority groups. Numerous extrajudicial, summary or arbitrary executions were said to take place in the context of forced labour. Members of minority groups are reportedly taken for porter duty by the military, either as punishment for suspected involvement with armed insurgents or simply at random. While on duty, they are said to be subjected to severe ill-treatment including deprivation of food, water and sleep, beating with bamboo sticks and rifle butts, kicking with heavy boots, burning with cigarettes or slashing with bayonets. When, as a consequence of the hard work under such conditions, they fall ill or become too weak to work, they are reportedly killed by the military or simply left to die. The Special Rapporteur also received reports about deaths in military custody due to torture and ill-treatment.

Communications sent

449. The Special Rapporteur transmitted to the Government of Myanmar allegations he had received concerning violations of the right to life of more than 55 persons, including two minors and two women.

450. The specific cases brought to the attention of the Government of Myanmar concerned:

(a) The extrajudicial execution, by members of the military, of the following persons forced to serve as porters: Abdul Mozid, allegedly beaten to death; Islam Nur, reportedly shot because he could not carry his load of ammunition; Zuri Ahmed, reportedly shot because he could no longer carry his load on a steep hill; Nai Aung Nyein, reportedly beaten to death;

(b) The extrajudicial execution by members of the military of: 17-year-old Zahida, allegedly after having been abducted and raped by soldiers; Abdul Rahman, allegedly shot dead by military intelligence agents who suspected him of being a supporter of the Rohingya Solidarity Organization; Sein U Than, village headman of La Kaing, allegedly accused by soldiers of cooperating with the insurgents; at least 20 unidentified Muslims, allegedly shot dead by Myanmar security forces when they attempted to cross the Naaf river into Bangladesh; at least 17 unidentified persons, when soldiers threw a bomb into a group of people; Nai Aung Hla; two unidentified villagers, allegedly for having refused to perform military service; 82-year-old Mi Shwe U, allegedly when soldiers opened fire indiscriminately on her village; Nai Thein and Nai Aung, allegedly by drunken soldiers who opened fire indiscriminately; 11-year-old Min Aung Soe, reportedly abducted and shot dead by an army firing squad; and Nai Nyunt Maung.

Communications received

451. At the time of the present report, no replies to the cases transmitted in 1993 had been received from the Government of Myanmar.

452. The Government of Myanmar provided the Special Rapporteur with replies concerning cases transmitted in 1992 as well as in 1991, by the then Special Rapporteur. The Government reported that the allegations according to which several persons had been tortured and shot to death (see E/CN.4/1993/46, para. 436 (a)-(c)), were not true and could only be fabricated. Upon his arrest, Mohamed Ilyas (see E/CN.4/1993/46, para. 436 (e)) had received treatment for severe stomach pains but had succumbed to disease.

Follow up

453. The Special Rapporteur addressed a follow-up letter to the Government of Myanmar in which he referred to the aforementioned replies to the cases transmitted in 1992. In particular, he requested to be informed in detail about the investigations carried out to show that the allegations were fabrications. In the case of Mohamed Ilyas, the Special Rapporteur asked for further details about his death and, in particular, whether an autopsy had been carried out (22 February 1993).

454. In reply to this letter, the Government of Myanmar provided the Special Rapporteur with additional information, stating that Mohamed Ilyas, who had been caught while setting mines and explosives at the public golf course in Maungdaw, had died of a stomach ulcer from which he had been suffering for a long time. This was established by the post-mortem examination carried out by the Township Medical Doctor. With regard to Saing Shwe, the authorities reported that extensive inquiries within the military commands in Shan State had established that no person of that name was killed or wounded in the area and during the period indicated (15 November 1993).

Observations

455. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Myanmar with regard to follow up on cases transmitted in 1992. However, he notes with concern that grave allegations of violations of the right to life continue to come before him. In this context, he wishes to make reference to the recent report of the Special Rapporteur on Myanmar to the General Assembly (A/48/578), which contained details, in particular on the phenomenon of extrajudicial killings of Muslims forced to serve as porters. The Special Rapporteur calls upon the Government of Myanmar to adopt measures to effectively protect the civilian population from abuses by the security forces and, in particular, the Muslim population of Rakhine State.

Nepal

Communications sent

456. The Special Rapporteur transmitted to the Government of Nepal allegations he had received concerning violations of the right to life of 25 persons, including two minors and two women; 22 cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

457. The cases brought to the attention of the Government of Nepal concerned the alleged extrajudicial killings of: Raja Ram Shakya and at least 18 others (names available at the Secretariat), when the police opened fire on demonstrators in Kathmandu and neighbouring towns. One woman, Rita Silpakar, was reportedly killed while watching the demonstrations from her nearby window; Rigzin Tsering, a monk, reportedly by Nepalese Border Guards; Jamyang Kelsand, reportedly shot in the head and killed when police opened fire on a crowd of Tibetans who had crossed the border into Nepal; Kapildev Singh and Bijaya Mahato, killed when police opened fire on a group of people who had gathered at Barahathawa police station, where three students were being tortured. One of them, Kiran Shrestha, reportedly died of the injuries sustained during the beatings.

Communications received

458. The Government informed the Special Rapporteur that Jamyang Kelsand, Kapildev Singh and Bijaya Mahato had died after police were compelled to use force for their own safety. Inquiries were carried out. Those responsible for the killings were identified, but it was not necessary to have penal or

disciplinary sanctions imposed on them. The families of Kapildev Singh and Bijaya Mahato received compensation. Kiran Skrestha died of a chronic disease, and from a beating (22 November 1993).

459. The Government of Nepal provided the Special Rapporteur with information concerning nine cases transmitted in 1992 and informed him that in three of these cases, security forces had to fire in self-defence, killing Om Prakash Yadav, Nathuni Mahato and Sotilal Mukhiya. Immediate investigations had confirmed that the situation required the action taken by police. Financial relief had been provided to the families of the deceased. The deaths of Tularaj Acharya, Poshan Lal Kunwar Danuwar, Ram Saran Yadav, Ram Prasad Singh, Abdul Miya and Dilliram Chouhan were the result of clashes between opposing party workers or local residents. Judicial investigations into these cases were under way (13 August 1993).

Observations

460. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Nepal in providing him with the above-mentioned replies. He remains, however, concerned at the use of lethal force by security forces and calls upon the authorities to take all necessary steps to prevent similar incidents from happening again in the future.

Nicaragua

Communications sent

461. The Special Rapporteur sent an urgent appeal to the Government of Nicaragua in response to reports expressing fear for the lives and physical integrity of sugar workers on strike after the police had allegedly resorted to excessive use of force in trying to intervene on the premises of the sugar company (19 March 1993).

Communications received

462. At the time of the preparation of the present report, no communications had been received from the Government of Nicaragua.

Nigeria

463. The Special Rapporteur received reports about violations of the right to life in areas of Rivers State inhabited by the Ogoni community. Security forces were said to have used excessive force against participants in peaceful demonstrations against the destruction of fields and crops without indemnification by Nigerian and multinational companies exploiting oil fields in the region. Killings were also said to have taken place during ethnic clashes between the Ogoni and the neighbouring Adoni people, in which the authorities allegedly supported the latter.

464. The Special Rapporteur also received reports expressing concern at trial procedures before the Civil Disturbances Special Tribunal leading to the

imposition of capital punishment, in which fundamental fair trial guarantees were said to be denied, in particular the right to appeal before a higher court.

Communications sent

465. The Special Rapporteur transmitted to the Government of Nigeria allegations he had received concerning violations of the right to life of more than 57 persons, including three minors and one woman. More than 35 persons were said to have been extrajudicially executed in violation of their right to freedom of opinion and expression, peaceful assembly and association.

466. The Special Rapporteur addressed urgent appeals to the Government of Nigeria after being informed that the following persons had been sentenced to death by the Civil Disturbances Special Tribunal in Kaduna: Major-General Zamani Lekwot; Gankon Dawa Kurfi; Iliya Maza; General James Atomic Kude; Yohanna Karau Kibori; Marcus Mamman; Yahaya Duniya; Julius Sarki Dabo as well as three members of the Hausa ethnic group and three members of the Kataf ethnic group (10 February 1993 and 8 March 1993).

467. The Special Rapporteur also transmitted to the Government of Nigeria allegations he had received concerning the alleged extrajudicial, summary or arbitrary execution of at least 35 members of the Ogoni ethnic group, including the husband of Mrs. Nwiku and three young children, during an armed attack by Adoni people on Kaa town, in which the military was said to have failed to attempt to restore order, and of Agbarator Otu, who was said to have been killed when security forces opened fire on Ogoni people demonstrating against oil companies.

Communications received

468. Concerning the allegations of killings in Ogoni-land, the Government of Nigeria stated that Agbarator Otu and 10 others from this region had not been killed. The Government also informed the Special Rapporteur that Ken Karo-Siwa had been arrested in June 1993 in connection with the political and civil disturbances in Rivers State during the election period and released on 4 September 1993. During his detention, he was accorded all relevant rights and protection and was not subjected to torture or any inhuman or degrading treatment (22 November 1993).

Observations

469. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Nigeria in providing him with the above-mentioned reply. He will follow up on the information it contains in accordance with the follow-up procedure recently initiated.

470. However, the Special Rapporteur remains concerned at the allegations of lethal force by security forces against peaceful demonstrators described above. Reports of acts of inter-ethnic violence resulting in numerous casualties, in which government forces are said not to have taken any preventive action, are also most disturbing. Furthermore, the Special Rapporteur is concerned that defendants before the Civil Disturbances Special

Tribunal are not guaranteed a full right to appeal. The Special Rapporteur calls upon the Government of Nigeria to adopt all necessary measures to prevent the excessive use of force in the context of demonstrations; to ensure equal protection of the right to life of all people, regardless of their ethnic origin, and prevent inter-ethnic violence; and to assure full respect for all safeguards and guarantees protecting those who may face the death penalty.

Pakistan

471. The Special Rapporteur continued to receive reports expressing concern at the continued application of capital punishment in Pakistan after trials in which internationally recognized safeguards and guarantees for those who may face the death penalty are not fully guaranteed. Particular concern has been expressed at the fact that the scope of the death penalty had been extended in recent years: in May 1991 the death penalty had become mandatory in cases of blasphemy and the Government was said to be planning to extend it to drug offences in August 1993.

Communications sent

472. The Special Rapporteur transmitted an urgent appeal to the Government of Pakistan after being informed of the imminent execution of three members of the Christian religious minority, Manzoor Masih, Rehmat Masih and Salamat Masih, who had been charged with blasphemy. According to the information received, their trial presented grave shortcomings with regard to the right to defence. The Special Rapporteur expressed particular concern at the fact that Salamat Masih was only 13 years old (7 September 1993).

473. The Special Rapporteur also transmitted to the Government of Pakistan two cases of alleged extrajudicial executions said to have occurred in late 1990, in which the authorities were reported to have failed to fulfil their obligation to open investigations. The names of those killed, allegedly by identified members of the security forces, were Zulfikar Ali Domki and Mashood Ahmed Domki.

Communications received

474. At the time of the preparation of the present report, no communications had been received from the Government of Pakistan.

Observations

475. The Special Rapporteur notes with alarm the extension of the scope of capital punishment as described above. He is also deeply concerned at the reports of death sentences handed down after trials in which the defendants did not benefit from full guarantees for a fair trial. The death sentence imposed upon a 13-year-old boy is particularly disturbing. Death as mandatory punishment in cases of blasphemy clearly constitutes a violation of article 6 (2) of the International Covenant on Civil and Political Rights, whereby only the most serious crimes which entail lethal or other extremely grave consequences may be punished by death. The Special Rapporteur urges the Government of Pakistan to refrain from widening the scope of capital

punishment and to ensure that defendants in capital cases fully benefit from all safeguards and guarantees contained in the pertinent international instruments. The Special Rapporteur also calls upon the authorities to revise legislation so as to make it conform to these instruments.

Panama

Communications sent

476. The Special Rapporteur transmitted an urgent appeal to the Government of Panama after fears had been expressed for the life and physical integrity of trade union leader Orlando Stanziola and seven other trade unionists, who were said to have been detained after a strike in a sugar mill. They had allegedly received death threats (2 April 1993).

Communications received

477. The Government of Panama provided the Special Rapporteur with two replies to the aforementioned urgent appeal and informed him about the events at the sugar mill. The Government forwarded a number of official documents indicating that the security forces did not threaten or ill-treat Orlando Stanziola or the seven detained. According to a report by the Ministry of Labour and Social Welfare, those detained were visited eight minutes after their detention by a representative of the Commission on Human Rights of Panama. When they were released, shortly afterwards, upon an order by the President of the Republic, all seven signed a note confirming that they had not been subjected to ill-treatment.

Papua New Guinea

478. The Special Rapporteur received information according to which a large number of human rights violations, including extrajudicial, summary or arbitrary executions, had occurred since April 1991 on the island of Bougainville in the context of the ongoing armed conflict between the security forces of Papua New Guinea and the Bougainville Revolutionary Army (BRA).

479. A large number of suspected BRA members had allegedly become victims of executions and disappearances. It was reported that a large number of them had died after their boats or trucks were shelled or strafed from the air by the armed forces. Other killings were said to have taken place in government controlled "care centres" ostensibly established by the authorities to provide shelter to Bougainvilleans fleeing the BRA. According to the reports, the latter were also responsible for serious human rights abuses, including killings of alleged opponents. To date, no information has been received regarding efforts made by the authorities to stop such human rights violations. On the contrary, the Government of Papua New Guinea was reported to have persistently denied the occurrence of human rights violations in Bougainville.

Communications sent

480. The Special Rapporteur sent an urgent appeal to the Government of Papua New Guinea after being informed about concerns for the lives and physical integrity of Ken Savia, Mr. Toromura and Gabriel Tameung, who were said to have been arrested by the security forces and were feared to have been killed while in custody (21 May 1993).

481. The Special Rapporteur also transmitted the above-mentioned concerns to the Government of Papua New Guinea with a request for information on the situation with regard to the right to life in the country and, in particular, on any steps taken to bring perpetrators of human rights violations to justice and prevent similar incidents from happening in the future.

Communications received

482. At the time of the preparation of the present report, no communications had been received from the Government of Papua New Guinea.

Paraguay

Communications sent

483. The Special Rapporteur sent an urgent appeal to the Government of Paraguay after being informed about repeated death threats against former political prisoner Martín Almada, human rights lawyer Gloria Estrago and Reverend Armin Yhle. The threats were said to emanate from an extreme right-wing organization allegedly enjoying support from the Government (27 April 1993).

Communications received

484. At the time of the preparation of the present report, no reply to the urgent appeal had been received from the Government of Paraguay.

485. On 28 June 1993, the Government of Paraguay provided the Special Rapporteur with information regarding three cases transmitted in 1991 by the then Special Rapporteur. In the case of death threats against two lawyers, investigations had been opened but could not be pursued by the Public Ministry, since death threats required civil penal action and the complainants could not forward any evidence to substantiate the complaint. No one had filed a complaint concerning an alleged attempt on the life of a Member of Parliament.

Observations

486. The Special Rapporteur appreciates the willingness to cooperate demonstrated by the Government of Paraguay in providing him with the replies summarized above. Although, for reasons pointed out earlier, replies to cases transmitted in 1991 cannot be included in the same follow-up procedure as those sent to the Governments concerned in 1992 and 1993, the Special Rapporteur would like to note that it is the obligation of each State to guarantee full protection of all fundamental rights and freedoms and, in

particular, the right to life. The interest of providing such protection goes beyond the interest of the individuals involved and includes the obligation to investigate violations of the right to life, identify and punish those responsible, and prevent their future occurrence. Consequently, the investigation of alleged death threats should not be subject to a civil penal action, whereby the victim is exclusively responsible for initiating the action; the public prosecutors should be entitled to pursue investigations on their own initiative. The Special Rapporteur calls upon the Government of Paraguay to consider revising its legislation so as to enable the authorities to fulfil their obligations under international law irrespective of whether or not the victims are able to provide evidence to identify the authors of human rights abuses against them.

Peru

487. From 24 May to 2 June 1993, the Special Rapporteur visited Peru to look into allegations of violations of the right to life in that country. His findings, together with his conclusions and recommendations, are contained in an addendum to the present report (E/CN.4/1994/7/Add.2). This chapter contains an account of the cases transmitted to the Government of Peru in 1993 as well as follow-up correspondence concerning allegations transmitted earlier.

Communications sent

488. The Special Rapporteur transmitted to the Government of Peru allegations he had received concerning violations of the right to life of 95 persons, including 3 minors and 25 women. Four cases were said to involve violation of the right to freedom of opinion and expression, peaceful assembly and association in five urgent appeals, the Special Rapporteur responded to allegations of death threats against eight persons.

489. The Special Rapporteur sent urgent appeals to the Government of Peru in response to reports expressing fear for the lives and physical integrity of the following persons: Rosa del Pilar Pastor, the wife of General José Pastor Vives, imprisoned after an attempt to overthrow the Government of President Fujimori in September 1992, after death threats (31 December 1992); journalist Cecilia Valenzuela, after death threats related to her articles on serious human rights violations imputed to the State security forces (30 March 1993); Heriberto Benítez Rivas and his family, after death threats said to be related to his activities as lawyer for the families of the 10 victims of La Cantuta (see E/CN.4/1993/46/Add.2, paras. 55-73) (26 July 1993); trade union leader José Barletti Pascuales, said to be held in unacknowledged police detention (7 September 1993); Camilo Núñez Quispe, reportedly abducted by police agents, after the killing by police of his brother Teófilo Núñez Quispe. Fears were also expressed for the safety of the latter's wife Natalia Escobar Silvestre and father Guillermo Núñez Palomino, and of Soledad Ramos Ramos, all of whom were said to have witnessed his killing (24 September 1993).

490. In an urgent communication on 8 July 1993, the Special Rapporteur urged the Peruvian authorities to adopt all necessary measures to protect four graves found on the road from Lima to Cieneguilla which were said to contain

the remains of the 10 victims of La Cantuta, and to ensure that the investigation of these remains are carried out by a team of recognized experts, according to the highest standards. The Special Rapporteur reiterated this appeal in another communication on 22 September 1993 (see E/CN.4/1993/46/Add.2, paras. 68 and 73).

491. On 22 September 1993, the Special Rapporteur addressed a further urgent communication to the Government of Peru in which he expressed grave concern at the possible extension of the scope of the death penalty to crimes of terrorism and treason, as provided for in one of the articles of the new Constitution whose draft was submitted for approval by the Peruvian people in a referendum on 31 October 1993. The Special Rapporteur pointed out the tendency towards a limitation and eventual abolition of capital punishment contained in various international instruments and expressed particular concern at the shortcomings with regard to guarantees for a fair trial under the anti-terrorism legislation currently in force in Peru (see E/CN.4/1993/46/Add.2, paras. 74-78)

492. The Special Rapporteur also transmitted to the Government of Peru the following cases of alleged extrajudicial, summary or arbitrary executions that have been brought to his attention:

(a) Alleged extrajudicial executions by members of the military in 1992: Erick Rojas Llanca and Rafaél Navarro Pisango in Los Jardines de Tarapoto; Amadeo Ircañaupa, Luciano Huamán García, Antonio Janampa Auccasi, Constantina García Gutiérrez, Mariano Janampa García, Agripina Auccasi Espilico, Celedonio Huamán García and Maura Huamán Paucar, in Pallcca; Demetrio Huamán León, between Pallcca and Manchiri; Víctor Huamán Paucar, Mauro Huamán Paucar, Narcizo Huamán Paucar and Melecio Chonta Huamán, in Manchiri; Pedro Honorato Davila Espinoza, in Aucayacu; Cirilo Ccora Quispe, in Pastales Huando; Josías Ramírez Angulo, in Lamas; Pedro Huilca Tecse, in Lima;

(b) Thirty students of the Universidad Nacional del Centro del Perú in Huancayo, who were reportedly abducted by members of the security forces after the military had carried out a census of all students and teachers. A large number of them were said to have been found dead later, some bearing marks of torture. A special attorney was appointed to investigate these cases. However, to date, no one was said to have been brought to justice. The names of the students are available at the Secretariat;

(c) Alleged extrajudicial executions by members of the military in 1993: José Omar Martín Morales Martínez, in Lima; César Alfonso Ramírez Pinchi, in Caserío del Mariscal Cáceres; Ruby Porras Montes, in Chupuro; Alberto Calipuy Verde and Rosa Carbajal (or Rosenda Yauri Ramos), in Angasmarca; Julia Herrera Pablo, in Uchucchahua; Santos Hilario Tayganpan, Sara Bolostro, Juana de la Cruz, Omar Tayganpan de la Cruz, Gabina Tayganpan de la Cruz, Crispín Tayganpan de la Cruz and Segundo Benjamín Huamán, in Angasmarca; 17 year-old Kisinger López Ruiz, in Lima; Percy Nima Seminario, in Piura; Francisco Díaz Mancilla, in Lima; José Antonio Alcázar Gómez, in Lima; Carlos Augusto Gallardo Malpartida, in Huánuco; Armando Ruiz Vásquez, in Huánuco; and Juan Silva Céspedes, in Huánuco;

(d) Furthermore, it was reported to the Special Rapporteur that the police officer responsible for the killings of Zacarías Pasca Huamani and Marcelino Valencia Alvadaro in Santo Tomás, Cuzco, in September 1990, as well as the extrajudicial execution of David Ito Huanaco in 1991 has received only a suspended sentence and is still at liberty.

Communications received

493. The Government of Peru provided the Special Rapporteur with replies to two of the above-mentioned urgent appeals and informed him that:

(a) Cecilia Valenzuela had not activated any of the internal mechanisms provided by the Peruvian legal system to deal with cases such as hers. The Government noted that such action constituted one of the most important preconditions for the admissibility of individual complaints before international organs (13 May 1993);

(b) José Barletti Pascuales was released on 11 August 1993. During his detention, his physical integrity and judicial guarantees were fully respected (16 September 1993).

494. The Government of Peru also provided the Special Rapporteur with information concerning allegations transmitted by him in 1992 and informed him that, in the cases of:

(a) Juan Luna Rojas (see E/CN.4/1993/46, para. 472), there had been no attempt to abduct or detain him by any government organ. The register of detainees did not contain any record of his past or current detention, and there was no case against him pending (14 April 1993);

(b) The killing of 15 peasants in Santa Bárbara, Lt. Javier Bendezú Vargas of the Peruvian Army had been sentenced to 10 years' imprisonment (see E/CN.4/1994/7/Add.2, paras. 32 (a) and 53) (14 April 1993);

(c) The killing of five peasants in Chavín (see E/CN.4/1993/46, paras. 475 and 480 (e)), investigations had been opened against several police officers and members of the rondas campesinas of Challhuayaco, Rancas and Huaripampa (19 April 1993);

(d) Alleged death threats against more than 40 journalists in Ayacucho (see E/CN.4/1993/46, paras. 473 and 480 (c)), these threats were expressed in one leaflet which circulated in Ayacucho in September 1993 and whose authors, the self-proclaimed "Anti-terrorist Movement of Ayacucho", could not be identified (11 May 1993);

(e) Carlos Vásquez Reinel and Salvador Carrasco Gómez (see E/CN.4/1993/46, paras. 477 (b) and 480 (p)), judicial proceedings had been opened against five policemen who, at the time of the reply, were being held in detention in Tarapoto (see also E/CN.4/1994/7/Add.2, para. 33 (c)) (11 May 1993);

(f) Cynthia Tumis Quezada Roque (see E/CN.4/1993/46, paras. 467 and 480 (a)), investigations had revealed that she had not been hurt by a bullet fired by a police officer but bit herself on the lip, frightened by the sound of the shot (8 January 1993, 16 and 19 April 1993);

(g) Alleged death threats against prosecutor Manuel Antonio Córdova Polo (ibid.), criminal proceedings had been opened against a lieutenant of the Peruvian Army (8 January and 19 April 1993);

(h) Inés Sinchitullo Barboza (ibid.), criminal investigations had continued but the authors of the attack against her home could not be identified (19 April 1993).

495. The Government of Peru also provided the Special Rapporteur with follow-up information on a number of cases transmitted to the authorities in 1991 by the then Special Rapporteur (5 January, 21 July and 3 November 1993).

496. The Government of Peru also provided the Special Rapporteur with detailed information about numerous killings, in particular of members of local authorities and members of the indigenous Asháninka tribe in Satipo, as well as other violent attacks resulting in the destruction of schools and other public property committed by members of armed opposition groups, particularly the Communist Party of Peru "Shining Path" (see also E/CN.4/1994/7/Add.2, para. 29).

497. In addition, the Government of Peru forwarded to the Special Rapporteur information concerning measures adopted by the Peruvian authorities to promote awareness of and respect for human rights. These included several Legislative Decrees concerning human rights education and rules concerning the processing of complaints about human rights abuses and their investigation.

Follow-up

498. The Special Rapporteur sent a follow-up letter to the Government of Peru in which he referred to a number of replies received from the authorities in reply to cases transmitted to them in 1992, as well as information regarding these cases contained in documents received by the Special Rapporteur during his visit to Peru.

Observations

499. The Special Rapporteur appreciates the willingness to cooperate demonstrated by the Government of Peru in providing him with the aforementioned replies. As concerns the reply to the allegations of death threats against Cecilia Valenzuela, the Special Rapporteur wishes to emphasize that the aim of urgent appeals in such cases is the prevention of irreparable loss of life and to alert the authorities so that they may provide effective protection to the persons said to be at risk and open inquiries into the origins of the alleged threats. Consequently, the Special Rapporteur transmits such cases regardless of whether domestic remedies have been exhausted.

500. The Special Rapporteur thanks the Government for its cooperation in the preparation of, and during his visit to Peru. As concerns his assessment of the situation of the right to life in Peru, the Special Rapporteur would like to refer to his report on this visit. The Special Rapporteur hopes to continue his dialogue with the Peruvian authorities on issues relating to his mandate and, in particular, with regard to the implementation of the measures recommended with a view to achieving better protection of the right to life. He will continue to monitor closely all developments in this field.

Philippines

501. The Special Rapporteur received reports indicating that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in the Philippines.

502. As in former years, most of the abuses are said to take place in the context of the ongoing violent political conflict between the Government and armed opposition groups, in particular the New People's Army (NPA), the armed wing of the Communist Party of the Philippines (CCP) engaged in guerrilla warfare. While liquidation squads of the NPA known as "sparrow units", military rebel forces and Muslim separatist forces such as the Moro National Liberation Front (MLNF) and the Moro Islamic Liberation Front (MILF) are said to be responsible for acts of violence including killings, numerous violations of the right to life continue to be attributed to government forces.

503. The Special Rapporteur received particularly disturbing allegations of extrajudicial killings by members of the Citizen's Armed Forces Geographical Units (CAFGUs), one of the paramilitary forces deployed by the Philippine Army in its efforts to defeat the armed opposition, particularly the NPA. The Philippine National Police and the Philippine Army were also repeatedly named as responsible for killings, death threats and acts of harassment and intimidation. Those most frequently said to be the victims of such human rights violations are civilians, including elderly people, women and children in rural areas, where the government forces suspect them to be members or supporters of the NPA.

504. In this context, it has repeatedly been reported that the Government continues its counter-insurgency strategy of "total war" against the armed opposition. This is allegedly responsible for most of the human rights violations. Although in recent years the Philippines has adhered to a number of international human rights instruments and civilian courts have regained jurisdiction over military offenders, convictions for politically motivated killings are still said to be exceptional and the perpetrators of human rights violations allegedly continue to enjoy a high degree of impunity.

Communications sent

505. The Special Rapporteur transmitted to the Government of the Philippines allegations he had received concerning violations of the right to life of 16 persons, including 4 women. Five cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

506. The Special Rapporteur sent urgent appeals to the Government of the Philippines in response to reports expressing fear for the lives and physical integrity of: 71 year-old Inostacia Masuela, after she had witnessed the killing of her 75 year-old husband Porferio Masuela by CAFGU members said to remain armed and at large (28 May 1993); poet and journalist Clovis Nazareno and witnesses who testified on his behalf, after he was arrested and ill-treated by police (27 August 1993); Sonny Boy de la Peña and Edwina Bodozo Joromo, peasant organizers and human rights activists, allegedly under threat from CAFGU and police (13 September 1993); as well as Henry Llanos Banos, Graciano Pardillo and Danilo Cangmaong, all three allegedly under death threats from local government officials and police (3 September 1993).

507. The Special Rapporteur also transmitted to the Government of the Philippines allegations he had received concerning the following cases of extrajudicial executions by members of the CAFGUs: Jovito and George Banidad, allegedly killed by CAFGU members, who threatened their family with death if they reported the incident; human rights activist Chris Batan; trade unionist Exquito Lasquite; Emily Macabite; and Lolita Has y Domigina. In addition, the Special Rapporteur transmitted the case of Joselito Furugganan, allegedly extrajudicially executed by members of the Philippine Army.

Communications received

508. The Government of the Philippines provided the Special Rapporteur with information on investigations carried out by the Philippine Commission on Human Rights into the following cases:

(a) Complaints made by Clovis Nazareno against policemen whom he accused of misconduct and oppression. This investigation had been closed after he could not establish a factual basis for these complaints. A second investigation was opened after allegations of renewed threats by military personnel. The Commission concluded that he had not been a victim of the alleged threats and closed the case (1 June 1993). A police investigation into the most recent complaints by Clovis Nazareno was dropped and closed as being without merit or basis (29 October 1993);

(b) Reports about the killing of Lolita Has y Domigina. This investigation led to the filing of a criminal complaint against CAFGU member Joaquin Baron Sr. As of 21 April 1993, preliminary investigations were being conducted and monitored by the Commission. Witnesses to the killing, who had themselves been abducted by CAFGU members and Philippine Army soldiers, refused to file charges against them for fear of reprisals (9 August 1993);

(c) Death of Exquito Lasquite. As of 5 July 1993, the Commission was conducting investigations. Witnesses were hesitant to testify for fear for their lives (9 August 1993).

509. The Government of the Philippines also provided the Special Rapporteur with a reply concerning the case of Eduardo Faelnar, transmitted in 1992 (see E/CN.4/1993/46, para. 495). The commanding officer of the Military Intelligence Command admitted that NPA members who had surrendered and were in his custody had, without his permission, initiated actions, some of which

amounted to harassment, against Eduardo Faelnar. The latter subsequently stated to the Commission that he was no longer being "tailed by suspicious-looking men" (22 April 1993).

Observations

510. The Special Rapporteur wishes to express his appreciation of the willingness to cooperate shown by the Government of the Philippines. However, the Special Rapporteur has noted with concern that, in the reports of the Philippine Human Rights Commission, it is repeatedly stated that witnesses do not dare present testimony about human rights violations as they fear for their lives. The Special Rapporteur urges the Government of the Philippines to invest the Philippine Human Rights Commission with procedures and resources which effectively ensure protection of victims, their families and witnesses who present complaints or testimony.

511. The Special Rapporteur is also concerned at the persistent reports about violations of the right to life by paramilitary civil defence groups cooperating with the Philippine National Army in counter-insurgency tasks, in particular the CAFGUs. The Special Rapporteur calls upon the Government of the Philippines to adopt all necessary measures to ensure that both security forces and members of civil defence groups fully respect the right to life of the civilian population and insurgents who are hors de combat.

Rwanda

512. From 8 to 17 April 1993, the Special Rapporteur visited Rwanda after he had received allegations of violations of the right to life in that country. His findings, together with his conclusions and recommendations, are contained in an addendum to the present report (E/CN.4/1994/7/Add.1). This chapter contains an account of the cases transmitted to the Government of Rwanda during 1993.

Communications sent

513. The Special Rapporteur transmitted to the Government of Rwanda allegations he had received concerning violations of the right to life of more than 300 persons, including those involving one minor and six women.

514. The Special Rapporteur sent two urgent appeals to the Government of Rwanda expressing concern about human rights activists or witnesses of human rights violations: Eustache Mupenzi and other persons who had collaborated with or testified before the International Commission of Inquiry on violations of human rights in Rwanda since 1 October 1990, following reports of reprisals and acts of intimidation against those persons and of a resumption of the killings (15 February 1993); Ignace Ruhatana, Permanent Secretary of the non-governmental human rights organization Kanyarwanda, after he had been injured during an attack by a commando of armed men on his house (12 May 1993).

515. The Special Rapporteur also transmitted to the Government of Rwanda allegations he had received concerning the extrajudicial killings of more than 300 persons. It must be noted, however, that while the incidents had

been reported in considerable detail, the names of most of the victims were not communicated to the Special Rapporteur. Some of those cases had been reported by an official commission of investigation. Regarding the types of allegations referred to in the following cases, reference is made to the report on the mission carried out by the Special Rapporteur in Rwanda (E/CN.4/1994/7/Add.1).

(a) The following persons were allegedly killed by members of the security forces: Hayiparusi Kituku, Bonaventure Bigora, Tito Umuto, Evariste Bizimungu, Charles Karake, Ephrem Twaguramungu, Vedaste Murangwa, Claver Kirangwa, Claire Rwamwaga, Hitimana, Mafigi, Kavaruganda, Mukamugara, Gatambara, Andre Rukiliza, Gerard, Gatura, Ngiruwonsanga, Gakwaya, Elias Ndayambaje, Gahima, Etienne Bayijahe, Albert Katalyera, Jean-Bosco Bagiranza, Kanyakore (alias Sekufeko), Gakwenzire, Ismail Songoro, Justine Muhungwange, Bugirimfura, Mukantwari, Mukabahinde, Simeon Mutarambwira, Rugelinyange, Claude Mutsinzi, 75 unidentified persons, and 2 groups of an undetermined number of unidentified persons;

(b) The death of the 34 unnamed persons and of two groups of an undetermined number of unidentified persons was attributable to local government officials;

(c) The following persons had been killed by members of the Movement révolutionnaire national pour la démocratie et le développement (MRND): Sophie Ntawera, Mukamana, Semafaranga, Nkunzwenimana, Mbendegezi, Fatuma Mukandutiye, Martin Nsabimana, Kadogo, Hategekimana, and 154 unidentified persons;

(d) In addition, the case of Emanuel Gapyisi, a prominent leader of the opposition political party, Movement démocratic republicain (MDR), was reported. It was alleged that he had been killed by a death squad said to be linked with certain Rwandese authorities.

Observations

516. The Special Rapporteur welcomes the signature of a peace agreement on 4 August 1993 in Arusha, United Republic of Tanzania, between the Government of Rwanda and the Rwandese Patriotic Front (FPR). It was reported that the internally displaced persons had started returning to their villages. However, according to the information received, none of the concrete steps to avoid the recurrence of violations of the right to life in the country announced by the President and the Prime Minister in their joint declaration of 8 April 1993 had been put into practice.

517. At the time of the preparation of the present report, no reply had been forwarded by the Government of Rwanda, either on the report on the mission of the Special Rapporteur, which was transmitted to the authorities on 23 August 1993, or on the urgent actions or the cases transmitted to the Government. It was therefore not known what measures had been adopted by the Government to implement the recommendations made by the Special Rapporteur after his mission. The Special Rapporteur wishes to carry out a follow-up visit to Rwanda, possibly as a joint mission with the Representative of the

Secretary-General on internally displaced persons. In the light of the violent incidents which have taken place in neighbouring Burundi, and taking into account the similarities of the problems facing those two countries, the Special Rapporteur envisages the possibility of conducting a combined visit to both Rwanda and Burundi.

Saudi Arabia

518. The Special Rapporteur received a number of reports concerning the practice of capital punishment in Saudi Arabia. In particular, it was reported that 1992 had witnessed a sharp increase in applications of the death penalty: 105 persons were said to have been publicly executed. Serious concerns were expressed with regard to grave shortcomings in the procedures during trials that lead to the imposition of capital punishment. The defendants were said to be denied most basic rights during pre-trial detention, including the right of access to lawyers and prompt access to a judge, the right to challenge their detention before a judge and medical attention. Furthermore, defendants reportedly do not benefit from adequate time or facilities to prepare their defence. During the trial, they are allegedly denied the right to be formally represented by a lawyer. It was reported that in many cases convictions were pronounced solely on the basis of confessions, and there were numerous allegations of forced confessions which were said to have been extracted under torture.

519. In addition, it was reported that the number of capital offences was extended twice: in 1987, a fatwa was issued to extend the scope of the death penalty to drug smuggling or receiving and distributing drugs from abroad. In 1988, another fatwa extended the death penalty to acts of sabotage or "corruption on earth" that "undermine security and endanger lives and public or private property". Previously, such offences were punishable by the death penalty only if loss of life was involved.

Communications sent

520. The Special Rapporteur addressed a letter to the Government of Saudi Arabia in which he expressed his concern at the reports summarized above and requested to be provided with specific information about the range of offences punishable by death and the rules of procedure that apply to such cases, with particular regard to the rights of persons held in preventive detention and during the trial itself.

Communications received

521. At the time of the preparation of the present report, no communications had been received from the Government of Saudi Arabia.

Observations

522. The Special Rapporteur is deeply concerned at the practice of capital punishment in Saudi Arabia, which, according to the reports at his disposal, constitutes in many aspects a violation of article 6 of the International Covenant on Civil and Political Rights, through the extension of the range of capital offences, its application to offences which do not have lethal

consequences but entail only damage to property, and the failure to ensure full fair trial guarantees. The Special Rapporteur regrets that the Government of Saudi Arabia has not replied to his request for information. He urges the authorities to revise the legislation and practice so as to make them conform to the standards as set forth by the pertinent international instruments.

Sierra Leone

523. The Special Rapporteur received a number of reports concerning serious violations of the right to life in the aftermath of alleged attempted coups d'etat: at least 26 persons were said to have been sentenced to death and executed in Freetown on 29 December 1992 for their alleged involvement, following a trial before a new military tribunal which failed to respect the minimum guarantees for a fair trial. In particular, it was reported that not all of the five army officers who formed the tribunal had received legal training, that the defendants had not been guaranteed the right to be assisted during their trial by legal advisers or defence lawyers and that they had no right to appeal their conviction and sentences.

524. The Special Rapporteur also received reports of violations of the right to life in the context of an armed conflict between the army and rebel forces in the south-east of the country. Most of the cases brought to his attention had occurred in 1991. A non-governmental source reported that, according to government estimates in mid-1992, more than 8,000 civilians and 125 soldiers had died since March 1991, when an invasion force from Liberia composed principally of Sierra Leoneans belonging to an armed group opposed to the Government captured villages and towns in Southern and Eastern Provinces. In this context, it was also reported that government troops had tortured and executed people suspected of supporting or assisting rebel forces.

Communications sent

525. The Special Rapporteur transmitted to the Government of Sierra Leone allegations he had received concerning violations of the right to life of 59 persons, including 2 women.

526. The Special Rapporteur sent four urgent appeals to the Government of Sierra Leone after receiving reports about the execution of the death penalty imposed on at least 26 persons for their alleged involvement in the attempted coups d'etat. James Bambay Kamara, James Yaya Kanu, Kahota Dumbuya were among those reportedly executed. Fears had been expressed that nine others (names with the secretariat) might also be sentenced to death and executed after a trial that did not conform to internationally recognized fair trial standards (6 and 15 January, 10 February and 27 April 1993).

527. The Special Rapporteur also transmitted to the Government of Sierra Leone the following specific cases: Jibiru Turay, Mohamed Turay, Thairu Turay, Lahai Kpatewah and Alhadji Morrey, allegedly killed by soldiers on suspicion of having joined the insurgents; Ansumana Sheriff, Alusine Sheriff and Ensine Sesay, reportedly robbed and killed by soldiers because they were in possession of rebel documents; Kanneh Braima and Augustine Kamara, captured while hiding in the bush and allegedly executed by soldiers; Koakei Karimu,

killed by soldiers because he was mistaken for a man who was believed to have joined the rebels; and Momo Koneh, allegedly a self-confessed rebel, handed over by the local authorities to the army headquarters for further investigation and reportedly executed there.

Communications received

528. At the time of the preparation of the present report, no communications had been received from the Government of Sierra Leone.

Observations

529. The Special Rapporteur was deeply concerned at the fact that despite repeated urgent appeals sent to the Government of Sierra Leone, fears continued to be expressed concerning the life and physical integrity of the persons arrested and held incommunicado on suspicion of involvement in alleged coup attempts, and regrets that no information was forwarded by the Government on those allegations. The Special Rapporteur calls upon the Government of Sierra Leone to ensure full respect for the right to life and, in particular, for the guarantees and safeguards protecting those who may face capital punishment, in accordance with the pertinent international instruments.

Somalia

530. The Special Rapporteur received a number of reports concerning grave human rights abuses, including violations of the right to life, in the context of what was described as a human rights disaster caused by the ongoing armed conflict between the warlords and their numerous armed groups and famine. The victims of deliberate killings were said to have included numerous civilians who did not take part in the hostilities, as well as humanitarian relief workers and members of the United Nations Operation in Somalia (UNOSOM).

531. With particular concern, the Special Rapporteur has received reports about alleged extrajudicial killings of civilians involving members of the international forces deployed in Somalia during both phases of operations authorized by the United Nations. For example, during the first phase, until the end of April 1993, members of various national contingents of the United Nations International Task Force (UNITAF) were said to have been responsible for the killing of several Somalias, allegedly using excessive force. The killing of approximately 20 Somalia civilians in Mogadishu by Pakistani troops forming part of the United Nations peace-keeping force in Somalia who allegedly opened fire on a large crowd of people, including women and children, was also reported to the Special Rapporteur.

Communications sent

532. The Special Rapporteur addressed a letter to the head of UNOSOM. Since the reports on violations of the right to life in Somalia were rather general, and the current situation in Somalia did not permit him to follow the normal procedure established for the working of the mandate, the Special Rapporteur requested information about the situation of the right to life of civilians in Somalia, both in general (figures, perpetrators, circumstances, etc.) and with regard to specific cases.

533. In the same letter, the Special Rapporteur expressed grave concern at the allegations implicating international peace-keeping forces in killings of civilians and asked UNOSOM to provide him with information about the inquiries carried out to establish the precise circumstances of those incidents and, in particular, whether the military personnel involved resorted to excessive use of force. The Special Rapporteur also asked for information about the organs which carried out such investigations, their legal basis and the sanctions, if any, imposed as a result of such proceedings. Finally, the Special Rapporteur inquired what measures had been adopted to avoid excessive use of force by members of the international peace-keeping force and, in particular, whether they received any specialized instruction with regard to internationally recognized standards and the obligation to abide by them even during armed conflicts.

Observations

534. The Special Rapporteur is deeply concerned at reports about the reported involvement of members of the international forces in violations of the right to life in Somalia. In this context, he wished to express his view that members of United Nations field missions should be held responsible for violations of rights and guarantees contained in international human rights instruments. As each State is bound under international law to respects these standards, an organ representing these States in their collectivity has at least the same degree of responsibility. As peace-keeping and observer missions under the auspices of the United Nations multiply, it may be desirable to envisage the institution of an organ within the United Nations, or within each peace-keeping or observer mission, to investigate human rights abuses by members of such missions and hold their authors responsible. Provision should also be made to grant compensation to the victims of such abuses or, in the case of extrajudicial killings, to their families. With a view to preventing such incidents, all members of peace-keeping and observer missions should receive thorough training in human rights matters as well as in mediation and conflict resolution.

South Africa

535. As in former years, the Special Rapporteur received a large number of allegations concerning extrajudicial, summary or arbitrary executions, death threats or acts of harassment and intimidation against members of the political opposition, in particular the African National Congress (ANC), trade unionists, human rights defenders and student leaders. The South African Police (SAP), the South African Defence Forces (SAF) and groups allegedly cooperating with them were said to be responsible for most of the killings and death threats reported to the Special Rapporteur. Some of these acts were said to be directed against persons who had provided testimony in inquiries into human rights abuses imputed to members of the security forces.

536. According to the information received, grave acts of political violence continued to occur, including attacks on black train commuters or on ANC-supporting communities by armed men believed to be operating from hostels controlled by the Inkatha Freedom Party (IFP) in which the police were said to acquiesce. Reports were also received concerning deaths in police custody, allegedly after torture and excessive use of force against demonstrators.

537. The Special Rapporteur was further informed that impunity continued to be the general rule in cases of violations of human rights. Almost without exception, members of the security forces and other forces acting with their acquiescence were reportedly not asked to account for their actions. In July 1992 a report on 120 cases of death in police custody under suspicious circumstances by Dr. Jonathan Gluckman, a leading South African pathologist, was issued by the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation, chaired by Justice Goldstone, seized documents revealing that the Chief of Staff of Military Intelligence had authorized the operations of a task force aimed at destabilizing the ANC. With regard to Dr. Gluckman's report, the authorities were said to have refused to acknowledge the seriousness of the alarming death rate amongst uncharged detainees in policy custody or the opening of an independent judicial investigation. In November 1992, the Government enacted the Further Indemnity Act which was said to grant impunity to human rights violators. On 19 December 1992, the South African President reportedly announced that he had ordered the suspension from duty or early retirement of 23 military officers for alleged involvement in illegal activities, including murder. However, it was reported that key senior officers implicated in assassinations of government opponents and covert operations against the opposition retained their posts.

538. The Special Rapporteur was invited by the ad hoc Working Group of Experts on Southern Africa to participate as an observer in the field mission to the front-line States Botswana and Zimbabwe in August 1993. During this mission, the Special Rapporteur had the opportunity to meet with representatives of South African non-governmental organizations as well as with witnesses, and to exchange views with the Working Group on issues of common concern.

Communications sent

539. The Special Rapporteur transmitted to the Government of South Africa allegations he had received concerning violations of the right to life of 60 persons, including 2 minors and 2 women; 15 cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

540. The Special Rapporteur sent 14 urgent appeals to the Government of South Africa by which he expressed concern for the life and physical integrity of the following persons:

(a) ANC members and leaders: Siza Rani (22 December 1993); Chris Khoza, after the killing of Bheki Maseko (30 April 1993); Malose Lehobye (10 June 1993); Godfrey Maseko and Mkhanyisi Dlomo (11 August 1993);

(b) Leaders or members of students associations: Solomon (Solly) Bokaba and Gloria Sekamoeng (2 June and 17 August 1993); students in the so-called "homeland" of Bophutatswana, after violent acts by the SAP, including the killing of David Letsile (aged 14) (1 September 1993);

(c) Trade unions officials Bheki Ntuli, Willie Mchunu, Enoch Nzuza and Mike Mabuyakhulu (10 February 1993);

(d) Two persons scheduled to be executed after an allegedly unfair trial: Frans Netshirombeni and Wilson Nelukalo (28 May 1993);

(e) Patrick Huma, human rights lawyer (16 December 1993); Sipho Mthiyane and Lucky Mthiyane, after attacks by armed men allegedly linked to the security forces (2 July 1993); Johnson Mpukumpa, after the killing of Eric Hewu and Super Nkatazo (13 July 1993); Louis Sibeko, last surviving member of the Thokoza Civic Association, who had provided information to the Goldstone Commission, and Lucky Seepe (17 August 1993); as well as Ronnie Mjoli and Boysie Mpofana, after the killing of Wellington Mbili in SAP custody (18 October 1993).

541. The Special Rapporteur also transmitted to the Government of South Africa allegations he had received concerning the extrajudicial killings of: Bernard Sekhube Mushi, allegedly shot at close range by members of the SAF, and David Mokgalaka, reportedly tortured and shot dead in the custody of the SAP. No charges were said to have been brought against the policemen responsible for his death.

542. The Special Rapporteur also sent a letter to the Government of South African by which he requested to be provided with information on the problem of impunity in South Africa. In particular, he referred to the Further Indemnity Act and reports received from the source of allegations concerning the massacres of 28 unarmed demonstrators in Ciskei in September 1992 (E/CN.4/1993/46, para. 525), according to which no steps had been taken by the authorities to investigate the incident and bring to justice those responsible.

Communications received

543. The Government of South Africa replied to the Special Rapporteur's first urgent appeal concerning the case of Siza Rani (see E/CN.4/1993/46, para. 526) and informed him that the allegations transmitted were unfounded since that person had not filed any complaints about death threats. The SAP had no knowledge of an attack on Siza Rani's house. Mr. Rani was interviewed by the police in order to locate the suspect of an armed attack. The SAP was totally unbiased and its actions were conducted impartially (26 March 1993).

544. The Government also provided a reply concerning the urgent appeal sent by the Special Rapporteur on 2 July 1993 concerning the case of Sipho Mthiyane and Lucky Mthiyane, reportedly shot and stabbed with impunity by a person believed to be a member of the police. Those two persons had reported being assaulted. An immediate investigation launched by the police had lead to the identification of a suspect, the warrant for whose arrest would be executed as soon as he was traced (10 November 1993).

Observations

545. With regard to the reply received from the Government of South Africa in response to his urgent appeal of 2 July 1993, the Special Rapporteur notes with satisfaction that the Government used the reply form provided for that purpose. However, the Special Rapporteur is concerned at the small number of reported investigations into allegations of violations of the right to life,

and at persistent reports of impunity enjoyed by those responsible for such violations. It is also disturbing that few measures appear to have been adopted to stop and prevent the recurrence of killings, and to fight the deeply rooted violence existing in the country, in particular inter-communal violence. The Special Rapporteur calls upon the Government of South Africa to adopt measures with a view to complying with its obligation under international law to investigate human rights violations, bring to justice their perpetrators and grant compensation to the victims.

546. The Special Rapporteur hopes that the mechanisms of the United Nations which will assist South Africa during its transitional period will address the question of inter-communal violence and will assist the reforms of the police and the judiciary.

Sri Lanka

547. The Special Rapporteur received reports indicating that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Sri Lanka.

548. The military conflict between government troops and the Liberation Tigers of Tamil Eelam (LTTE) was said to have continued, particularly on the Jaffna peninsula and in the Mannar and Vavuniya districts. The Special Rapporteur received numerous reports about civilian casualties as a consequence of counter-insurgency operations carried out by the Sri Lankan Armed Forces. Despite assurances allegedly made by the authorities that air attacks were directed only against LTTE bases and camps, many civilians were said to have been killed during large-scale aerial bombardments by the Sri Lankan Air Force as well as naval strafing and shelling from military bases.

549. During the forty-ninth session of the Commission on Human Rights in February 1993, the head of the Sri Lankan delegation reiterated an invitation to the Special Rapporteur to carry out an on-site visit to Sri Lanka.

Communications sent

550. The Special Rapporteur transmitted to the Government of Sri Lanka allegations he had received concerning violations of the right to life of more than 110 persons, including 19 minors and 8 women.

551. The Special Rapporteur sent an urgent appeal to the Government of Sri Lanka in response to reports expressing fear for the life and physical integrity of Tharmalingam Selvakumar, who had allegedly received death threats after filing a complaint with the Supreme Court of Sri Lanka in which he protested about torture and ill-treatment during police detention (27 April 1993).

552. The Special Rapporteur transmitted to the Government of Sri Lanka the cases of more than 100 civilians who were said to have been killed during indiscriminate army attacks on residential areas (all names are available with the secretariat). These attacks were reportedly launched from army bases with

support from aeroplanes and helicopters. Several persons were killed at sea, when their boats were allegedly intercepted by the Sri Lankan Navy.

553. Nineteen minors were said to have been killed in these attacks. Their names have been reported as follows: Swakumar Ponnuthurai (15); Chandran Ponnuthurai (10); Yoganathan Yoganari (12); Yoganathan Rajanimalar (3); Sasikumar Thangarasa (17); Rangithkumar Thangarasa (15); S. Nanthan (12); S. Suganthan (10); S. Subagini (7); Nandakumar (9); Charles Robinson (11); Sarvily (daughter of Nagamuttu Thamrirasa) (10); Jeyasuthanage (son of Johnson Saraswathy) (10); Sri Nanthagopal (son of Nanniyar Nagamuttu) (10); Sebastian George Marcel (17); Sivanantham Suthaharan (12); Sathiyaseelan Robinson (13); Ligoury James (16); and Yogatharsan (16).

Communications received

554. The Government of Sri Lanka provided the Special Rapporteur with a reply to the urgent appeal on behalf of Tharmalingam Selvakumar, informing him that he had indeed filed a complaint with the Supreme Court alleging violation of his fundamental rights. The date for the hearing of the case was fixed for 25 February 1994. However, although Mr. Selvakumar filed further affidavits in June and July 1993, he did not mention that he had been threatened. Any complaints about death threats would undoubtedly have been inquired into (12 November 1993).

Follow-up

555. The Special Rapporteur sent a follow-up letter to the Government of Sri Lanka in which he referred to a reply received from the authorities in 1992 concerning the killing of 130 villagers in Alanchipothana, Karapola and Muthugal in April 1992 (see E/CN.4/1993/46, paras. 539 and 543). The Government informed him that a committee chaired by a retired judge of the Supreme Court had been appointed to inquire into these killings. The Special Rapporteur requested to be informed about the progress of the investigations. He also asked the Government to provide him with detailed information about the working of the committee, in particular the legal basis for its inquiries, the procedures followed, its relations with other, judicial or administrative, investigations, etc.

Observations

556. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Sri Lanka in providing him with replies to cases transmitted in 1992 and the urgent appeal sent in 1993. He would also like to thank the authorities for the invitation to visit Sri Lanka. The Special Rapporteur envisages carrying out this visit after the elections scheduled for April 1994, at a date to be fixed in consultation with the Sri Lankan authorities. In the meantime, the Special Rapporteur continues to monitor the situation of the right to life in Sri Lanka, in particular with regard to areas of concern such as the reported killings of civilians during counter-insurgency operations. The Special Rapporteur calls upon the Sri Lankan authorities to take steps with a view to the prevention of civilian casualties.

Sudan

557. The Special Rapporteur received a number of reports of a general nature concerning numerous and grave violations of the right to life in the Sudan, committed both by government forces and by the different factions of the Sudan People's Liberation Army (SPLA).

558. The recent interim report of the Special Rapporteur on the situation of human rights in the Sudan to the General Assembly (A/48/601) contained information concerning the following questions related to the right to life in the Sudan. As a consequence of the alleged killing of hundreds of civilians and army officers following an SPLA attack on Juba in June and July 1992 (see E/CN.4/1993/46) an investigation committee was established in November 1992 but so far no sentences have been pronounced by the special military courts set up to deal with the perpetrators of the killings. The fate of 230 individuals who were reportedly arrested in Juba between June and August 1992 remains unknown, and it is feared that many of them had been extrajudicially or summarily executed. According to reliable information gathered by the Special Rapporteur on the situation of human rights in the Sudan, the practice of extrajudicial killings, summary executions, arbitrary arrests and detention without trial continued during 1993 in Juba and in surrounding villages under the control of the Government.

559. The interim report of the Special Rapporteur also contained information concerning indiscriminate and deliberate aerial bombardments by government forces on civilian targets, for example camps for displaced persons, in the SPLA-controlled areas. It was further reported that joint forces of so-called Arab militias and the official paramilitary Popular Defence Forces (PDF) had allegedly killed hundreds of civilians along the railway tracks between Babanusa and Wau - Northern Bahr Al-Ghazal - in February/March 1993 and in July/August 1993. With regard to the situation of human rights in the Nuba mountains, it was reported that grave violations of the right to life were committed by the Sudanese Army and the paramilitary forces under its control.

560. According to reports forwarded by non-governmental sources, the government forces and rival factions of the SPLA had created a humanitarian disaster by waging war on villagers and herders. The displacement of millions of people and the killing of thousands of civilians have not been by-products of the conflict but a tactic integral to it. The flagrant violations of human rights standards and of the principles protecting civilians in times of conflict have created famine and dependency on food relief in many areas affected by war. Hundreds of thousands of people have lost their lives through illness, food shortage or deliberate assault.

Communications sent

561. The Special Rapporteur sent one urgent appeal to the Government of the Sudan in response to reports expressing fears for the life and physical integrity of four retired military officers, Col. Mustafa Ahmed El Tai, Col. Mohamed Hassan Osman, Col. Mohamed El Hassan Osman El Zubeir and Lt. El Tayeb Nour El Dayem Mohamed, as well as six civilians, Mubark Mohamed Abdalla Gadane, Dr. Jaffar Yassin Ahmed, Osman Mahmoud Ali Gumma, El Tarafi El Taher Fadul, El Hassan Ahmed Saleh Mohamed and Yasir Abu Zeid Ahmed Abu Zeid,

arrested in April 1993 after an announcement by the Sudanese Government that a coup d'état had been aborted before it had taken place. They were said to have been shown on television, handcuffed and shackled, and bearing signs of severe torture (30 April 1993).

Communications received

562. The Government of the Sudan provided the Special Rapporteur with information in reply to an urgent appeal concerning fears for the life of at least 135 civil servants, politicians and community leaders from Upper Nile State, most of them from the Nuer ethnic group, who had reportedly been arrested in Malakal in late October 1992 and held by military intelligence or in incommunicado detention by State Security (see E/CN.4/1993/46, para. 552).

563. The Government reported that in mid-October 1992 Malakal had been attacked by the "Kejor" anti-government rebels, apparently in collaboration with a group of persons within the town itself. Some arrests were subsequently made, and the persons concerned were well treated. After proper investigations some were released and others were to be prosecuted before an ordinary criminal court, with the full right to legal representation in open court. Some of the persons mentioned in the urgent appeal had never been arrested (21 December 1992).

564. In addition, the Government provided the Special Rapporteur with the following information in reply to his urgent appeal of 30 April 1993: Dr. Jaffar Yassin Ahmed, El Tarafi El Taher Fadul and Osman Mahmoud Ali Gumma were arrested by the competent Sudanese authorities on charges of attempting to bomb essential economic projects. Judicial proceedings had started. They were being held in Madni prison, where they could be visited by lawyers and relatives. All other rights were also fully guaranteed (25 October 1993).

Observations

565. The Special Rapporteur wishes to express his appreciation of the willingness to cooperate shown by the Sudanese authorities. However, he does wish to point out the problems encountered in dealing with situations such as the one in the Sudan. The vast majority of the allegations brought to his attention concern violations affecting prominent personalities in cities whereas the gravest violations are said to occur in remote regions and concern ordinary people.

566. The Special Rapporteur is deeply concerned at the scale of the reported violations of the right to life in the Sudan, especially in the southern part of the country, both at the hands of the government security forces and of the different factions of the SPLA. He therefore appeals to all parties to the conflict to respect at least the most basic human rights of the civilian population, in accordance with the provisions of the Geneva Conventions of 1949.

Sweden

Communications sent

567. The Special Rapporteur sent an urgent appeal to the Government of Sweden after being informed about the imminent repatriation of Mónica Castillo Páez to Peru, where her life and physical integrity were feared to be at risk, after her application for asylum had been rejected by the Swedish authorities (18 June 1993). A second urgent communication was sent to the Government of Sweden on her behalf, after the Special Rapporteur received reports that she had been taken into custody at a centre near Stockholm airport, reportedly in preparation for her deportation (19 August 1993).

Communications received

568. In its reply to his first urgent appeal, the Government of Sweden informed the Special Rapporteur that the European Commission on Human Rights had examined the case of Mónica Castillo Páez and declared it inadmissible on the grounds of its being manifestly ill-founded. The European Commission had also stated that the Swedish authorities had examined the case carefully. The Government of Sweden also informed the Special Rapporteur that, according to recent information available to the Government, there was no reason to believe that asylum seekers deported from Sweden to Peru would be at risk of torture or persecution (2 July 1993).

569. The Government also replied to the Special Rapporteur's second urgent appeal on behalf of Mónica Castillo Páez, informing him that on 21 August 1993, the expulsion order was carried out in accordance with the government's decision of 1 October 1992 and that Ms. Castillo Páez left for Lima via Amsterdam. Upon her arrival in Amsterdam, she applied for asylum in the Netherlands. The Government further reported that Mónica Castillo Páez had been detained in order to prevent her from going into hiding in Sweden. New requests for a residence permit lodged after her detention were rejected since they did not adduce new elements, as was a petition to the Government to quash the expulsion order as an act of mercy, since the legal provision invoked by Ms. Castillo Páez did not apply to her case (14 September 1993).

Observations

570. The Special Rapporteur highly appreciates the prompt and detailed manner in which the Swedish authorities provided him with replies to his urgent appeals and will continue monitoring any developments in this case.

Syrian Arab Republic

Communications sent

571. The Special Rapporteur transmitted to the Government of the Syrian Arab Republic allegations he had received concerning the execution on 20 May 1993 of the death sentence imposed upon 'Ali Mahmud Qasim, Farid Mahmud al-Jabri, Qahraman Jamhir Muhammad, Muhammad Amin Bin Muhammad and Ahmad Varhan Sakfan,

who had been found guilty of setting fire to a prison in March 1993, causing the death of 57 inmates. Fears were expressed that the trial procedures did not conform to international fair trial standards.

Communications received

572. The Government of the Syrian Arab Republic replied that the five above-mentioned persons were sentenced to death and executed after a trial before a military court, established pursuant to legislation providing for exceptional courts, after having been convicted of multiple crimes including murder. Three other accused persons were sentenced to life imprisonment. Members of the prison police were also tried (25 October 1993).

Observations

573. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of the Syrian Arab Republic in providing this reply. However, no details were provided as to due process guarantees enjoyed by the defendants. The Special Rapporteur remains concerned that the short duration of the proceedings - only two months elapsed between the time of the crime and the execution of the death sentences - may not have given them full possibilities to exercise their rights to an adequate defence and appeal.

Tajikistan

574. The Special Rapporteur received reports expressing concern at violations of the right to life in the context of the armed conflict between forces loyal to the Government and armed opposition forces. Since the eruption of factional violence in May 1992, up to 20,000 people are said to have lost their lives.

575. It was reported to the Special Rapporteur that since the entry into Dushanbe of forces subordinate to the Government in December 1992, unarmed civilians have been victims of extrajudicial executions by law enforcement officials. Many of these killings were said to have followed checks of identity papers on the streets or at the airport as well as during house-to-house checks. The victims were then allegedly executed on the spot. Persons originating from the Garm region or the Pamir mountains were said to be the main target group. Reportedly, law enforcement officials had been authorized to execute people summarily. Several public statements by government officials allegedly confirmed this "shoot-to-kill" policy. In addition, it has been alleged that many of the bodies of those killed by the security forces which had been found in the city morgue of Dushanbe showed evidence of lethal torture, such as partial skinning or burning to death.

Communications sent

576. The Special Rapporteur transmitted to the Government of Tajikistan allegations he had received concerning violations of the right to life of more than 22 persons, including 1 minor and 1 woman.

577. The Special Rapporteur sent an urgent appeal to the Government of Tajikistan expressing concern at reports of the killing, in late 1992, of

scores of unarmed civilians from the Pamir and Garm regions, who were suspected by government forces of supporting the opposition. The victims included Musa Isa, leader of an opposition movement and originating from the Pamir region, and journalists Akhmed Shakh Kamil, Mubarak Shakhov Khushbakht and "Sultan" (13 January 1993).

578. The Special Rapporteur also addressed an urgent appeal to the Government of Tajikistan after receiving information about the imminent execution of mullah Adzhik Aliyev, who was said to have been sentenced to death after a trial in which he allegedly did not benefit from the right to an adequate defence (1 September 1993). The Special Rapporteur sent a second urgent appeal to the Government of Tajikistan after receiving additional information alleging irregularities in the trial procedures, in particular as concerns witnesses' testimony. Furthermore, it was reported that, since capital cases are being heard by the Supreme Court of Tajikistan as the court of first instance and the only possible remedy against a death sentence is judicial review by the same court, the right to appeal was not fully guaranteed (19 October 1993).

579. The Special Rapporteur also transmitted to the Government of Tajikistan allegations concerning the extrajudicial, summary or arbitrary execution by security forces or groups cooperating with them of the following persons: Muso Isoyev; Shogunbek Davlatmirov; 7 members of the Rizvonov family, including a 4-year-old child and an 80-year-old grandmother, as well as 4 refugees who were staying in their house; Mukhatabtsho Abdulnazarov, Amirsho Khovarshoyev, Asilsho Khovarshoyev and 7 other, non-identified persons.

Communications received

580. At the time of the preparation of the present report, no communications had been received from the Government of Tajikistan.

Observations

581. The Special Rapporteur wishes to express deep concern at the alarmingly high numbers of civilian casualties reported as a result of the armed conflict in Tajikistan. The lack of full fair trial guarantees in trials leading to capital punishment and the fact that such cases are being judged by the Supreme Court of Tajikistan as court of first instance are also disturbing. In the light of the gravity of the violations of the right to life that have come before him in 1993, the Special Rapporteur has decided to request the Government of Tajikistan to invite him to carry out a visit to this country with a view to being in a better position to evaluate the situation and contributing, through recommendations, to an increased protection of the right to life in Tajikistan.

The Former Yugoslav Republic of Macedonia

Communications sent

582. The Special Rapporteur sent an urgent appeal to the Government of the Former Yugoslav Republic of Macedonia after being informed that refugees of Albanian origin were being repatriated from that country to the Federal Republic of Yugoslavia. In the light of continuing reports of human rights violations, including deaths in custody, of Albanians in the Federal Republic of Yugoslavia, and particularly in Kosovo, the Special Rapporteur appealed to the authorities of The Former Yugoslav Republic of Macedonia to refrain from repatriating these refugees unless their safety could be assured (21 September 1993).

Communications received

583. At the time of the preparation of the present report, no communications had been received from the Government of The Former Yugoslav Republic of Macedonia.

Togo

584. The Special Rapporteur continued to receive an increasingly large number of allegations of extrajudicial executions, death threats or acts of harassment and intimidation by members of the Togolese security forces against members of the legal political opposition, as well as abuse of force against peaceful demonstrators.

585. It was reported that political instability and violence had intensified following the National Conference in 1991, when transitional arrangements were made to lead to legislative and presidential elections. Rivalry between the head of State President Gnassingbé Eyadéma, backed by the Togolese Armed Forces (FAT), and the opposition reportedly increased. The victims of human rights violations were generally said to be targeted because of their ethnic origin and political views. The Special Rapporteur received a number of reports referring to alleged extrajudicial executions by members of the FAT in the context of an attack against the barracks of the Togolese Combined Regiments (RIT), in Lomé on 25 March 1993. Extrajudicial executions were also said to have been carried out at a shooting-range in the suburbs of the capital.

586. The Special Rapporteur was further informed that impunity continued to be the general rule in cases of violations of human rights. In this context, it was alleged that the security forces had repeatedly committed human rights violations, if not on instruction, at least in the confidence that they would not face prosecution. In fact, in the vast majority of cases, members of the security forces and other forces acting with their acquiescence were reportedly not asked to account for their actions.

Communications sent

587. The Special Rapporteur transmitted to the Government of Togo allegations he had received concerning violations of the right to life of 43 persons, including 3 minors; 18 cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

588. The Special Rapporteur sent 3 urgent appeals to the Government of Togo by which he expressed concern for the life and physical integrity of: Nebeyu Shone, Eugène Akpemado and other staff of the FOPADESC, a branch of the World Confederation of Labour, after attacks by armed men (12 January 1993); several persons, including 2 members of the armed forces named Lawson and Commander Foudoumi, arrested on charges of having participated in an attack against the RIT on 25 March 1993, after the alleged extrajudicial killing by members of the FAT of 13 persons, including 3 minors (names with the Secretariat) (2 April 1993); Koujou Agbolossou and Missiagbeto, both soldiers, reportedly arrested following the 25 March attack and Dobli Omorou Odanou and Dobli Dermane Odanou, allegedly arrested by the gendarmerie because their children were distributing leaflets (14 May 1993).

589. The Special Rapporteur also transmitted to the Government of Togo the following specific cases: Edoh Komi Sewoul and at least 18 others (names with the Secretariat), who reportedly died at the Blitta police station during the night of 26 to 27 August 1993. The victims were among a group of 40 suspected members of opposition parties who were arrested and placed in a cell designed for 5. They reportedly died as a consequence of ill-treatment or suffocated; Boudjakine Bidjakiwe and Bonjal, members of an opposition party, who were reportedly shot at point-blank range by soldiers on the orders of a village chief.

Communications received

590. The Government of Togo, through its Ministry for Human Rights, replied to the Special Rapporteur's first urgent appeal concerning the case of the FOPADESC staff, indicating that during the night of 31 December 1992 to 1 January 1993, there had been attacks by unidentified individuals against many buildings, including that of FOPADESC. Following those incidents, the Government had worked to restore peace and security in the country (12 October 1993).

591. The Government of Togo also replied to his urgent appeal of 14 May 1993, informing him that a judicial inquiry had been opened in order to establish the responsibility of the persons concerned. Their conditions of detention respected human dignity (11 October 1993).

Observations

592. With regard to the reply received from the Government of Togo in response to his urgent appeal of 12 January 1993, the Special Rapporteur wishes to note that no information was provided regarding any investigations concerning the identity of the persons responsible for the attacks. The Special Rapporteur also notes that no reply was received regarding the grave allegations

concerning both the case of the persons extrajudicially killed following the attack of 25 March 1993 against the RIT barracks, and the death in custody of at least 19 persons in the police station at Blitta.

593. The Special Rapporteur notes with regret that human rights mechanisms, such as the Ministry for Human Rights, seem to have a limited impact on the investigations and prosecutions that should take place concerning the grave allegations of violations of the right to life in Togo that continue to reach him. On the contrary, according to all information at the Special Rapporteur's disposal, the alleged perpetrators of human rights violations continue to enjoy impunity. It appears that the Togolese Armed Forces are not under the control of the civilian authorities. The Special Rapporteur urges the Government of Togo to adopt effective measures to investigate past human rights abuses and bring those responsible to justice, and to prevent further violations of the right to life, in particular in view of the forthcoming electoral campaigns.

Turkey

594. According to the information that has come before the Special Rapporteur, human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Turkey in the context of the armed conflict between government security forces and guerrillas of the Partiya Karkeren Kurdistan (Kurdish Workers' Party, PKK) in the south-eastern parts of Turkey.

595. Since 1984, this conflict has said to have cost more than 6,000 lives on both sides and among the civilian population. Both government forces and the guerrillas are said to be responsible for serious human rights abuses. Between March and June 1993, the human rights situation reportedly improved significantly after the PKK declared a unilateral cease-fire, although their forces were not withdrawn and government forces continued their operations. During the course of the cease-fire, killings of civilians by village guards and of alleged informers by the PKK were said to have virtually ceased, while assassinations of opponents of the Government also halted. After a PKK attack on a convoy of unarmed soldiers travelling in civilian clothes which caused the death of 32 soldiers and 4 civilians, however, the cease-fire ended. Government forces allegedly responded with large-scale military operations covering the entire region. Fears have been expressed that this might lead to a renewed escalation of violence, entailing extrajudicial executions of suspected members or supporters of the PKK and killings of civilians who do not participate in the conflict.

596. The Special Rapporteur received numerous reports expressing concern at security raids carried out by soldiers in cooperation with special teams and village guards. Villagers who refuse to join these - theoretically voluntary - self-defence arrangements were often said to be suspected of supporting the guerrillas. Those who served as village guards, on the other hand, were often subject to reprisals from the PKK for cooperating with the security forces.

597. The Special Rapporteur also continued to receive reports about deaths in custody as a result of torture and ill-treatment. Often, such cases were said to occur after villagers are arrested and taken away during security raids

against villages. Concern was expressed at the fact that by taking people into their custody for interrogation village guards exceed their authority to engage in legitimate self-defence activities. It was persistently alleged that those responsible for extrajudicial killings and torture, whether members of the State security forces or village guards, were not brought to justice. Only in a few cases were disciplinary measures said to be taken against them and sanctions, if imposed at all, were reportedly very light.

598. Members of political opposition parties, human rights activists and journalists working for newspapers which oppose government policy in the south-east of Turkey were also reported to be victims of death threats and extrajudicial killings. Collaborators of the journal Özgur Gündem were particularly often said to be victims of attacks against their lives. In some cases, the security forces were said to be responsible, in others they were said to collude with or protect those responsible for the killings.

Communications sent

599. The Special Rapporteur transmitted to the Government of Turkey allegations he had received concerning the violation of the right to life of more than 102 persons. In 6 cases, the victims were said to be minors; 7 cases concerned women. It was alleged that 36 cases constituted violations of the right to freedom of expression and opinion, peaceful assembly and association.

600. The Special Rapporteur sent nine urgent appeals to the Government of Turkey after being informed of fear for the lives of: Ahmet Akkun and 10 other people reportedly abducted by security forces, after the abduction and subsequent killing, also by security forces, of Mehmet Akan and Mehmet Akkum (18 December 1992); Fevzi Veznedaroglu, human rights lawyer and chairman of the Diyarbakir branch of the Human Rights Association, after repeated death threats (20 January 1993); human rights lawyer Metin Can and Dr. Hasan Kaya (26 February 1993); Fatma Can, wife of Metin Can (27 April 1993); Esref Yasa, owner of a newspaper kiosk in Diyarbakir, after the killing of his uncle Hasim Yasa (17 June 1993); Hafiz Uzun, representative of the People's Labour Party (HEP) and of the human rights association IHD in Lice (2 July 1993); Tacettin Demir, Diyadin correspondent for Özgur Gündem, after being detained by security forces (26 July 1993).

601. The Special Rapporteur also sent urgent appeals after receiving reports expressing fear for the lives and physical integrity of the members of 13 Assyrian Christian families, who were said not to receive any protection from the security forces (24 September 1993); and of Leyla Zana and 15 other Members of Parliament for the Democracy Party (DEP) as well as nine human rights activists after repeated death threats against them and the killing of DEP Member of Parliament Mehmet Sincar (24 September 1993).

602. Furthermore, the Special Rapporteur addressed an urgent communication to the Turkish authorities after being informed about the imminent repatriation of Hassanzadeh Afshar Mohammad Reza, an Iranian national, whose life was said to be at serious risk if he were to be returned to the Islamic Republic of Iran (4 May 1993).

603. The Special Rapporteur also transmitted to the Government of Turkey the following cases of alleged extrajudicial, summary or arbitratry executions:

(a) Journalists Namik Taranci; Kemal Kilic; Ferhat Tepe; Aysel Malkac; Halit Kapcak; and taxi-driver Halil Adanin, allegedly for distributing Özgur Gündem;

(b) During raids on villages by village guards in cooperation with members of the security forces: Ibrahim Dilek; Mustafa Dogan; Yusuf Cakar; Seydo Ceviren, Bahriye Ceviren, Ahmet Ceviren, Yusuf Ceyiren, Necat Arizi and one unidentified person; a three-year-old child killed by the explosion of a hand-grenade in Ormanici;

(c) By security forces: Saban Budakm, Mehmet Bulut and Kasim Bulut;

(d) While in the custody of the security forces, allegedly after torture: Ramazan Altunsoz; Remzi Basalak; Veysi Kaymaz; Abdülessim Orak; Ramazan Sat; Tahir Saday;

(e) DEP Member of Parliament for Mardin Mehmet Sincar and Metin Zdemir, President of the Batman Section of HEP, by "Kontrgerilla"; Habib Kiliç, leading member of the Batman Section of HEP;

(f) Also by "Kontrgerilla": Dr. Zeki Tanrikulu, director of Silvan hospital, after receiving death threats.

(g) During police operations, allegedly as a result of excessive use of force: Bedir Yagan, Aydin (Özgür) Gürcan, Meral Menekse, Rifat Kasap and Asiye Fatma Kasap in Istanbul; Gurbet Deniz, Fetullah Akalin, Süleyman Kaplan, Latif Deniz, Semsettin Evsin and one unidentified person in Nusaybin.

Communications received

604. The Government of Turkey provided the Special Rapporteur with information on a number of the cases transmitted in 1993. In particular, it was stated that:

(a) Metin Can and Hasan Kaya had been found dead under a bridge near Tunceli. Investigations had been opened by the competent authorities in Tunceli. In conformity with the Code of Criminal Procedure, however, the pertinent documents could only be consulted by the defence of those accused (9 April 1993 and 19 May 1993);

(b) Hassanzadeh Afshar Mohammad Reza had applied for permission to remain lawfully in Turkey in order to subsequently move to a third country. The competent Turkish authorities granted this permission for three months so that he could obtain, in the meantime, a visa for another country (11 January and 24 May 1993);

(c) Fevzi Veznedaroglu had not filed any complaint against the police officers allegedly threatening him, either with the prosecutor's office of Diyarbakir or the prefect. However, a detained member of the PKK had stated that the PKK planned to assassinate Fevzi Veznedaroglu and other personalities

in a way that their killings would be perceived as having been committed by the security forces. Whereas two others were immediately warned by the security forces, Mr. Veznedaroglu could not be reached as he was abroad, but was advised through a colleague to contact the Security Directorate upon his return (24 May 1993).

(d) Hafiz Uzun had been arrested and brought before the Diyarbakir State Security Court, which acquitted him of charges of having offered assistance and shelter to terrorists. While detained at Diyarbakir prison, he had lodged a complaint alleging that the Commander of the Lice County Gendarmerie Unit had threatened to kill him. Investigations had been opened into these allegations. No other complaints had been filed by Hafiz Uzun (14 October 1993).

(e) Bedri Yagan et al. had been killed by security forces attempting to capture them. An investigation resulted in the eight security officers involved in the operation being charged with manslaughter (4 November 1993).

(f) Süleyman Kaplan et al., all members of the PKK, had fired on security forces, who had appealed to them to surrender, and lost their lives in the ensuing skirmish. An investigation to determine whether the security forces had committed any errors during the operation was still under way (4 November 1993).

(g) Tacettin Demir had been arrested after an armed attack by the PKK in Diyadin on 13 July 1993, during which six members of the Ciftci family were killed. He was released on 21 July 1993 and proceedings against him are under way (12 November 1993).

(h) Mehmet Sincar and Metin Ozdemir were killed during an armed attack in Batman on 4 September 1993. One suspect was detained. He declared having participated in the killing as a guard and identified those who had actually shot and killed the victims. The suspect was being held in detention and the other persons were being sought (22 November 1993);

(i) Zeki Tanrikulu had been shot and severely injured by unidentified armed men in Silan on 2 September 1993 and died in hospital shortly after (22 November 1993);

(j) Habib Kiliç had been killed by unidentified armed persons in Batman on 2 September 1993. An investigation into the case was under way (22 November 1993);

(k) Ramazan Sat had been shot dead by unidentified persons in the street at Sanliurfa on 2 July 1992. It was established that he had links with the PKK. An investigation into the case was under way (22 November 1993).

605. The Government of Turkey also provided the Special Rapporteur with three replies containing information on numerous cases transmitted in 1992. Investigations had been opened and then concluded through a decision of nonsuit in six of the cases. In over 80 cases, investigations had been initiated and, by the time of the replies (14 December 1992 and 2 February 1993), were still under way. With regard to the killings

of more than 30 persons, the Government of Turkey informed the Special Rapporteur that these had been carried out by PKK terrorists whom the authorities had not yet been able to identify. Furthermore, more than 50 persons were said to have been killed in armed clashes between PKK terrorists or unidentified persons and government security forces.

Follow up

606. The Special Rapporteur addressed a follow-up letter to the Government of Turkey in which he asked for additional information on the following cases, transmitted both in 1992 and 1993, to which the Turkish authorities had provided replies:

(a) With regard to the investigations concluded through a decision of nonsuit, the Special Rapporteur requested details on the exact meaning of such a decision under Turkish law, as well as on the organs that had carried out the inquiries, the procedural and substantive norms that apply in such inquiries and the possibilities for appeal against the decisions taken;

(b) The Special Rapporteur requested updated information on investigations that had been opened. In a number of cases, the Special Rapporteur asked for specific details related to the inquiries;

(c) Where the Turkish authorities informed him that the unidentified killers had been PKK terrorists, the Special Rapporteur inquired about the elements permitting this to be affirmed, through which inquiries, and by whom these elements had been obtained;

(d) With regard to deaths which, according to the Government of Turkey, had resulted from armed confrontations between government forces and PKK terrorists and, in particular, during the Newroz celebrations (see E/CN.4/1993/46, para. 610), the Special Rapporteur requested information about the investigations carried out to identify, in each single case, the authors of the killings and, in particular, whether ballistic tests had been performed during such investigations.

607. In the same letter, the Special Rapporteur transmitted to the Government of Turkey additional information he had received concerning the cases of:

(a) Metin Can and Dr. Hasan Kaya. In particular, it had been stated that the authorities had not taken any action to determine the whereabouts of the two men between their disappearance on 21 February 1993 and the discovery of their bodies on 27 February 1993. In view of these reports and further allegations that linked the killing of Metin Can and Dr. Hasan Kaya to the "Kontrgerilla", in collaboration with the security forces, the Special Rapporteur asked the Government of Turkey to provide him with details about the manner in which the police investigations had been conducted immediately after their disappearance as well as any other steps taken with a view to identifying those responsible for the killings;

(b) Fevzi Veznedaroglu. In particular, it had been alleged that the detainee who stated that the PKK was planning Mr. Veznedaroglu's assassination had been forced to do so by the security forces. The Special Rapporteur

invited the Turkish authorities to provide him with comments on these allegations and to inform him about the measures adopted to protect the life and physical integrity of Fevzi Veznedaroglu.

608. In addition, the Special Rapporteur asked the Government of Turkey to provide him with information on the current status of Hassanzadeh Afshar Mohammed Reza.

609. During the Special Rapporteur's visit to Geneva in November 1993, he met with representatives of the Government of Turkey for consultations about different aspects of his mandate. With regard to a possible visit to Turkey, he was informed that it was preferable to wait until the authorities had transmitted to the Special Rapporteur all the information he had requested concerning allegations.

Observations

610. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Turkey in providing him with replies to a number of cases transmitted both in 1992 and 1993. However, he remains concerned at the persistent and grave reports of violations of the right to life in the context of the armed conflict between the government security forces and groups cooperating them and members of the PKK. The Special Rapporteur is fully aware of the enormous human and material damage caused by violent attacks committed by members of the armed opposition and the difficulties faced by the authorities in protecting the civilian population and curbing such violence. However, it must be recalled that the right to life is absolute and must not be derogated from, even under the most difficult or exceptional circumstances. In this context, the Special Rapporteur calls upon the Government of Turkey to undertake every effort to ensure full respect for the right to life of both the civilian population and members of the armed opposition who have been captured or laid down their arms, in accordance with the international instruments governing the use of force and firearms by law enforcement officials. The Special Rapporteur also urges the Turkish authorities to take effective steps directed at the prevention of human rights abuses by civil defence groups cooperating with the security forces in fighting the armed opposition.

611. With regard to cases of alleged deaths in custody, the Special Rapporteur wishes to refer to the summary account of the results of the proceedings concerning the inquiry on Turkey by the Committee Against Torture (A/48/44/Add.1). The Committee expressed concern at the number and substance of the allegations of torture it had received, which confirmed the existence and systematic character of the practice of torture in Turkey. In this context, the Special Rapporteur calls upon the Turkish authorities to adopt all necessary measures to ensure that the right to life and physical integrity of those in custody is fully guaranteed. The Special Rapporteur is also concerned at persistent allegations that those responsible for violations of the right to life do so in virtual impunity.

612. With regard to Turkey, the Special Rapporteur continues to find himself in a position where detailed and numerous allegations received from credible sources and the information provided by the Turkish authorities in their

replies differ considerably. For this reason, and given the gravity of the allegations received and the fact that similar reports had come before him repeatedly, the Special Rapporteur had requested the Government of Turkey in 1992 to consider inviting him to carry out a visit to that country. However, consultations with the Government have not yielded any results. The Special Rapporteur wishes to express his continued interest in visiting Turkey so as to gather first-hand information so as to be in a better position to evaluate the allegations he receives and to make recommendations aiming at increased protection of the right to life.

Turkmenistan

Communications sent

613. The Special Rapporteur sent an urgent appeal to the Government of Turkmenistan after receiving information about the imminent execution of the death sentence imposed on Yuri Yurevich Ayriyev, after a trial whose procedures were said to have fallen short of internationally recognized fair trial standards (1 July 1993).

Communications received

614. At the time of the preparation of the present report, no communications had been received from the Government of Turkmenistan.

United Kingdom of Great Britain and Northern Ireland

Communications sent

615. The Special Rapporteur sent an urgent appeal to the Government of the United Kingdom in response to information received concerning the imminent repatriation of Karamjit Singh Chahal to India, where his life and physical integrity were said to be at risk. It was alleged that the deportation procedure followed in his case did not allow Karamjit Singh Chahal to effectively challenge possible untruths, inaccuracies or distortions used by the authorities as the basis for their decision (16 August 1993).

Communications received

616. The Government of the United Kingdom, in reply to the aforementioned urgent appeal, reported that Karamjit Singh Chahal was detained pending his deportation because he represented a substantial threat to national security. Mr. Chahal had been informed about the reasons for the decision to deport him, and he had an opportunity to rebut the allegations. The Home Secretary had sought, and received, assurances from the Indian Government that Mr. Chahal would be safe from ill-treatment if taken into custody by the Indian authorities. At the time of the reply, the case was before the Court of Appeal, awaiting judgement (20 September 1993).

Follow-up

617. Before the contents of the reply could be transmitted to the source of the allegations, the latter provided the Special Rapporteur with additional information on the case of Karamjit Singh Chahal according to which, on 22 October 1993, the Court of Appeal dismissed his appeal against the High Court's ruling of February 1993.

618. The Special Rapporteur addressed a second letter to the Government of the United Kingdom in which he thanked the authorities for their prompt and detailed reply to his urgent appeal. He reiterated his concern for the life and physical integrity of Mr. Chahal in the event of his repatriation to India and expressed his confidence that the United Kingdom would not return him unless his safety was guaranteed.

United States of America

619. The Special Rapporteur continued to receive numerous reports indicating that the practice of capital punishment in the United States of America did not conform to a number of safeguards and guarantees contained in international instruments relating to the rights of those facing the death penalty. In most cases, it was alleged that defendants did not benefit fully from their right to an adequate defence. A number of cases concerned death sentences imposed for offences committed when the defendants were below 18 years of age, or where they were said to be mentally retarded.

Communications sent

620. The Special Rapporteur sent urgent appeals to the Government of the United States in which he urged the authorities to ensure full respect for the rights of the following 13 persons facing the death penalty, including 4 minors:

(a) The following persons were said to have been sentenced to death after being convicted for crimes they had committed before they were 18; Gary Graham (21 May 1993 and 29 July 1993); Frederick Lashley (7 July 1993); Ruben Cantu (29 July 1993);

(b) The following persons were said to have been sentenced to death despite their serious mental retardation: Robert Sawyer (4 March 1993); Bobby Shaw (21 May 1993); John Selvage (28 May 1993); Chuck Lee Mathenia (3 June 1993); Curtis Harris (11 June 1993); Wayne Bates (12 November 1993);

(c) The following person was said to have been sentenced to death after trials in which his right to an adequate defence had allegedly not been fully ensured: James Dean Clark (7 April 1993);

(d) The following persons were said to have been sentenced to death despite strong indications casting doubt on their guilt: Leonel Herrera (27 April 1993); Walter J. Blair (1 July 1993); and Robert Nelson Drew (11 October 1993).

621. The Special Rapporteur also addressed an urgent appeal to the Government of the United States after he received information according to which the United States Coast Guard had begun the summary forcible repatriation of Haitian migrants intercepted at sea, without any screening or hearing, and thus without distinguishing between refugees fleeing persecution in Haiti and other emigrants. In view of persistent allegations concerning numerous extrajudicial, summary or arbitrary executions in a climate of total impunity in Haiti and a resolution by the Inter-American Commission on Human Rights made public on 17 March 1993, according to which Haitians who were returned to Haiti by the United States authorities very frequently suffered persecution at the hands of Haitian authorities, the Special Rapporteur urged the United States authorities to refrain from forcibly returning Haitian nationals in all cases where their lives and physical integrity would be in danger (4 May 1993).

Communications received

622. The Government of the United States provided the Special Rapporteur with a reply concerning the urgent appeal on behalf of Leonel Herrera (10 June 1993), as well as John Selvage, Gary Graham, Chuck Lee Mathenia, Bobby Shaw, James Dean Clark, Frederick Lashley, Ruben Cantu and Walter Blair (22 September 1993). The Government also forwarded replies concerning a number of urgent appeals in death penalty cases transmitted by the Special Rapporteur in 1992 (see E/CN.4/1993/46, paras. 625-631), as well as the case of the extradition to El Salvador of César Vielman Joya Martínez (see E/CN.4/1993/46, para. 632).

623. In its reply to urgent appeals transmitted in 1992, the Government of the United States provided the Special Rapporteur with detailed information about United States law concerning the death penalty. In particular, it was stated that both State and federal law fully ensured fair trial guarantees and the right to appeal against convictions. In addition to those guarantees, applicable in all criminal cases, additional protections were provided in capital cases. These include the obligation of States to provide a bifurcated process, by which the determination of guilt is separated from the sentencing process. Death sentences are automatically appealable to the State's highest court.

624. As regards death sentences imposed on juvenile offenders, the Government of the United States informed the Special Rapporteur that, when ratifying the International Covenant on Civil and Political Rights in 1992, the United States Senate had made an explicit reservation concerning application of capital punishment to those under the age of 18, noting that the United States Supreme Court had held that it was not unconstitutional to execute a defendant who was 16 or 17 years old at the time of the offence. However, the Government stated that a penalty of death was extremely rare in cases involving juveniles, and available only when the court had determined to try the defendants as adults.

625. The United States had expressly accepted the obligation not to execute pregnant women in its instrument of ratification, and United States courts had held that the death penalty may not be imposed upon insane persons (8 February 1993).

626. As concerns the cases transmitted in 1993, the Government of the United States informed the Special Rapporteur that the defendants were given the possibility fully to exercise their right to appeal against their convictions and sentences, both in State and federal courts. They were able to raise, for judicial review, allegations concerning procedural inadequacies or lack of fairness during their trials. They were also able to apply for a stay of execution or commutation of their death sentences (10 June 1993 and 22 September 1993).

627. With regard to the extradition of César Joya Vielman Martínez, the Government of the United States informed the Special Rapporteur that written assurances had been received from the highest levels of the Government of El Salvador that it would provide Mr. Joya Martínez appropriate protection during his incarceration and trial and permit access to him by both the International Committee of the Red Cross (ICRC) and the United Nations Observer Mission in El Salvador (ONUSAL).

Follow-up

628. The Special Rapporteur transmitted the contents of the replies received from the Government of the United States to the sources of the allegations for their observations. The sources responded with detailed comments. Information was received from the source of the allegation that the following persons on whose behalf urgent appeals had been sent were executed: James Dean Clark, on 14 April 1993; Walter J. Blair, on 21 July 1993; Frederick Lashley, on 28 July 1993; Ruben Cantu, on 24 August 1993.

629. The Special Rapporteur sent a letter to the Government of the United States in which he expressed appreciation for the detailed information provided by the authorities with regard to legal safeguards for those facing the death penalty. However, he remains concerned that these safeguards do not fully conform to the standards set forth by the pertinent international instruments. The Special Rapporteur conveyed to the authorities his preoccupation with shortcomings affecting the right to adequate time and facilities for defence which, in practice, also very much influence the right to appeal; racial discrimination in the application of capital punishment; and low standards for the qualification of a defendant as mentally competent.

630. The Special Rapporteur is particularly concerned at the continuing imposition and execution of death sentences in the case of juvenile offenders, in clear contravention of the International Covenant on Civil and Political Rights and a number of other pertinent international instruments. The Special Rapporteur feels that the fact that the United States has made a reservation concerning this clause of article 6 of the Covenant indicates that United States legislation in this area falls short of international standards. In addition, the United States Supreme Court's recent ruling whereby a defendant's youth does not in itself constitute a mitigating factor for the jury when deciding about capital punishment is most disturbing, as is the fact that, in Texas, a September 1991 statute enabling the jury in capital cases to consider youth as a mitigating factor is not retroactively applicable to juvenile offenders who committed their crimes before that date.

631. The Special Rapporteur also pointed out that, in a federative structure, the obligation to ensure full respect for the safeguards and guarantees protecting the right to life apply to all components of the State.

632. The Special Rapporteur calls upon the Government of the United States to make its legislation and practice conform to the safeguards and guarantees set forth in pertinent international instruments. He has notified the authorities that he would be entirely available for any assistance he might offer in this regard.

Observations

633. The Special Rapporteur highly appreciates the willingness to cooperate shown by the authorities of the United States of America in providing information. He hopes that the dialogue initiated, particularly in relation to the death penalty, will be continued in the interest of better protection of the right to life.

634. The Special Rapporteur refers to chapter VI of the present report, which contains an analysis of the safeguards and guarantees that must be respected by national legislation and practice in order to conform to the standards embodied in the pertinent international instruments.

Uzbekistan

Communications sent

635. The Special Rapporteur addressed urgent appeals to the Government of Uzbekistan after being informed of the fear for the life and physical integrity of Abdumanob Pulatov, a human rights activist and member of a political opposition movement, who had allegedly been abducted by members of the Uzbekistan National Security Services (16 December 1992).

636. The Special Rapporteur also sent urgent appeals to the Government of Uzbekistan in response to allegations regarding the imminent execution of death sentences imposed upon Venera Kasimova and Yashar Khasanov, who were said to have been convicted on the basis of confessions extracted under duress. Venera Kasimova allegedly also did not benefit from an adequate defence (22 June and 19 August 1993).

Communications received

637. At the time of the preparation of the present report, no communications had been received from the Government of Uzbekistan.

Venezuela

638. The Special Rapporteur has received a number of reports concerning human rights violations, including extrajudicial, summary or arbitrary executions, in the context of demonstrations. As in the past, several deaths were said to have been caused by arbitrary and excessive use of force by members of the

security forces, in particular the Metropolitan Police (PM), the Criminal Investigations Police (PTJ), the National Guard, the Directorate of Intelligence and Prevention Services (DISIP) and the Directorate of Military Intelligence (DIM).

Communications sent

639. The Special Rapporteur transmitted to the Government of Venezuela allegations he had received concerning violations of the right to life of more than 73 persons, including two women. One case reportedly involved a violation of the right to freedom of opinion and expression, peaceful assembly and association.

640. The Special Rapporteur sent an urgent appeal to the Government of Venezuela in response to reports expressing fear for the life and physical integrity of university student Ivo Rodríguez Escudero, who was allegedly threatened by members of the DISIP if he did not withdraw complaints filed against members of the police whom he accused of having tortured him in November 1992, in the aftermath of student demonstrations (10 March 1993).

641. The Special Rapporteur also transmitted to the Government of Venezuela reports concerning the alleged extrajudicial, summary or arbitrary execution of:

(a) At least 63 prisoners of El Retén de Catia prison, during an attempt to escape on 27 November 1992, the day of an attempted coup d'état, by members of the PM. Two days after the event, PM and National Guard agents were said also to have fired indiscriminately upon family members of the prisoners who had assembled outside the prison, waiting for information;

(b) Ernesto Leal Hernández, by members of the PM; Atahualpa Pérez and Johnny Vergara, by members of the security forces; and Clara Ariza, by members of the National Guard, on 27 November 1992; Virgilio Ferrández, by members of the National Guard; Enrique Key, by DISIP agents; and María Verónica Tecsari, by members of the PM, on the same day;

(c) Wayuu indians Pedro José Paz and Nasser Palmar, by DISIP agents allegedly resorting to excessive use of force.

Communications received

642. The Government of Venezuela provided the Special Rapporteur with information concerning the urgent appeal sent on behalf of a number of cases transmitted in 1993:

(a) With regard to the alleged death threats against Ivo Rodríguez Escudero, the Government reported that investigations had been initiated by the Public Ministry in Carabobo (26 May 1993);

(b) As regards the killings at El Retén de Catia prison, the Ministry of Justice forwarded a report indicating that, as a result of a mutiny in the prison, 46 inmates were killed, 52 others injured and 25 escaped. An investigation was opened by the Homicide Division of the Judicial Police. The

Human Rights Directorate of the Public Ministry also provided a report on the steps taken by that entity with a view to identifying those killed during the mutiny and clarifying the cause of their death. The report also described the requests made by the Public Ministry for a criminal investigation before the competent court into the events and a series of irregularities within the prison premises (31 August 1993);

(c) With regard to the killings of Ernesto Leal Hernández, Atahualpa Pérez Lira and Clara Ariza, the Government of Venezuela reported that judicial investigations had been opened. On 6 July 1993, an indefinite strike of all tribunals had started and was continuing as of the date of the reply (31 August 1993). However, the Public Prosecutor's Office continued to carry out preliminary investigations.

643. The Government of Venezuela also provided the Special Rapporteur with information on a number of cases transmitted by him in 1992 for which no reply had been received during 1992.

(a) As concerns the killings of Romer Figueroa Lizardi, Pedro José Vásquez and José Gregorio Romero Uzcátegui (E/CN.4/1993/46, para. 640), judicial investigations had been opened against members of the security forces and were still under way at the time of the reply (31 March 1993);

(b) As regards the killings of Darwin Capote Rondón, José Gregorio Soteldo and Humberto López Arías (E/CN.4/1993/46, para. 643), proceedings before civilian courts were initiated against two former members of the Metropolitan Police accused of intentional homicide and undue use of firearms. The proceedings had reached the sentencing stage when, on 6 July 1993, all tribunals in the country went on strike (25 August 1993);

(c) In the cases of Guadalupe Rivas Columba, Gilberto Peña Campos, Angel Ruiz and José Zerpa Miotta (E/CN.4/1993/46, para. 644 (b)), judicial investigations were opened before the competent military court. Parliament also initiated an investigation into the circumstances of their deaths. The Public Ministry also carried out inquiries with a view to clarifying the circumstances. Subsequently, a special follow-up commission, composed of qualified Public Ministry representatives, was created to coordinate the actions taken before the military courts. With regard to three cases in which the victims had not been identified (ibid., para. 644 (a)), the Government of Venezuela reported that investigations were under way. However, the Public Prosecutor's Office had stated that it was difficult to investigate complaints concerning victims who had not been identified (31 August 1993).

644. Furthermore, the Government of Venezuela informed the Special Rapporteur that Antonio Ríos (see E/CN.4/1993/46, para. 641) was held in a cell completely separated from the other prisoners in El Junquito prison, and thus without any possibility of contact between him and the person who was said to have made an attempt against his life (24 August 1993).

Follow-up

645. The Special Rapporteur addressed a follow-up letter to the Government of Venezuela in which he requested information about the progress of the proceedings in the cases mentioned in the Government's reply of 31 March 1993, as well as additional details about the inquiries into the alleged death threats against Ivo Rodríguez Escudero (22 September 1993). The remaining replies, although dated late August 1993, were received only after this follow-up letter was sent to the authorities. They will be the object of subsequent follow-up correspondence.

Observations

646. The Special Rapporteur highly appreciates the willingness to cooperate demonstrated by the Government of Venezuela in providing him with information concerning most of the cases transmitted in 1992 and 1993. However, he wishes to express concern at the continuing strike of the Venezuelan tribunals and hopes that the authorities will soon reach a solution that permits the courts to continue their investigations into alleged cases of extrajudicial, summary or arbitrary executions.

Yemen

Communications sent

647. The Special Rapporteur sent to the Government of Yemen an urgent appeal in response to reports about the imminent execution of the death sentence imposed upon Yabya Naji Muhammad al-Asadi and 24 others (names with the secretariat), after trials which were said to have fallen short of internationally recognized fair trial standards (23 December 1993).

Communications received

648. The Government of Yemen provided the Special Rapporteur with a reply to the urgent appeal, informing him that the appeal had been transmitted to the authorities in Sana'a. The Government further reported that all fair trial principles mentioned by the Special Rapporteur were enshrined in the Yemeni justice system and that, in case of death sentences, the Shariah, as codified, interpreted and applied in Yemen, specified that not only during the trial but even after sentencing no efforts should be spared to avoid executing a death sentence (28 December 1993).

Follow-up

649. The Special Rapporteur addressed a follow-up letter to the Government of Yemen in which he expressed his appreciation at the willingness to cooperate shown by the authorities in providing him with the aforementioned reply, and asked whether any progress had been made with regard to the investigation into the cases of the 25 persons sentenced to death.

Yugoslavia

Communications sent

650. The Special Rapporteur transmitted to the Government of the Federal Republic of Yugoslavia allegations he had received concerning the extrajudicial execution by members of the security forces of 11 persons between November 1991 and August 1992. The victims were said to have been of Albanian origin. One of them reportedly was an 11-year-old mentally retarded child: Afrim Prepreza was said to have been beaten to death by three civilians with a shovel and sticks. The three were not arrested, and no proceedings against them were said to have been initiated. Bajram Hoxhaj and two more unidentified persons were allegedly shot dead by police while taking their children to school. The following persons were allegedly beaten to death while in police detention: lawyer Mikel Marku; Ali Sahit Haxhiu, a refugee from Albania; Sami Babaj; Haki Pavataj; Rexhep Tahiri; 70-year-old Fetah Sokoli; and a man named Haki.

Communications received

651. At the time of the preparation of the present report, no communications had been received from the Government of the Federal Republic of Yugoslavia.

Observations

652. The Special Rapporteur is concerned at the reports received concerning violations of the right to life of persons of Albanian origin, particularly in Kosovo. Most of these reports, however, were general in character and did not contain specific cases. The Special Rapporteur would like to make reference to the human rights situation in the Federal Republic of Yugoslavia documented by the Special Rapporteur on the situation of human rights in former Yugoslavia in his recent report to the General Assembly and in particular to the information it contains with respect to excessive use of force by police against detainees of Albanian origin in Kosovo (see E/CN.4/1994/47, paras. 166-170 and 189-192).

Zaire

653. The Special Rapporteur received a number of reports concerning continuing serious violations of the right to life in the context of the struggle for power between President Mobutu Sese Seko and opponents. Large-scale human rights violations were said to have been committed by members of security forces in a climate of virtual impunity.

654. According to the information received, in the southern province of Shaba, a politically motivated campaign of ethnic terror instigated by supporters of President Mobutu was threatening the lives and livelihoods of tens of thousands of Zairians who have their roots in the neighbouring regions of East and West Kasai. Several reports indicated that similar acts of violence had

occurred against the Kinyarwanda-speaking population (called Banyarwanda) in the North Kivu region, near the borders with Rwanda and Burundi. The reported number of deaths was as high as 7,000. In the north-eastern part of the North Kivu region, government troops were reported to have killed unarmed civilians and committed gross abuses of human rights in the context of counter-insurgency operations.

655. Indiscipline and low or no wages in the armed forces were said to be the basis of a climate of insecurity and a situation where soldiers were systematically and in total impunity carrying out looting and rapes. In January 1993, soldiers who had been paid, on President Mobutu's order, with 5-million-zaire notes - had been declared illegal tender by Prime Minister Tchisekedi - reportedly looted the capital when traders refused to accept the notes. It was also reported that hundreds of people - according to some accounts, as many as 1,000 - had been killed during those incidents.

656. The Special Rapporteur received several reports of politically motivated violations of the right to life which had allegedly been committed by members of the security forces loyal to the President. In particular, in was reported that a new wave of arrests was initiated in late April 1993. Those arrested were said to include politicians, journalists and trade unionists who had criticized President Mobutu or were members of the non-violent opposition. Fear was expressed that they were subjected to torture and ill-treatment when they were first arrested and held in secret cells. Subsequent extrajudicial executions were reported. Furthermore, a number of reports indicated that abuse of force often took place when security forces and, in particular, the Special Presidential Division (DSP), had opened fire on crowds of unarmed demonstrators. Other reported violations of the right to life included death in detention due to lack of medical attention or starvation.

Communications sent

657. The Special Rapporteur sent five urgent appeals to the Government of Zaire expressing concern about the lives of: François Kandolo, Buana Kabue (both members of the Comité Laïc de Coordination), Jacques Matanda and Kamanda wa Kamanda (both members of the Haut Conseil de la République), whose name was on a blacklist of persons alleged to be targeted for execution by members of the security forces (12 January 1993); Mikuin Leliel Balanda, Chairman of the United Nations ad-hoc Working Group of Experts on Southern Africa and President of the Supreme Court of Zaire, who had been the victim of three armed attacks attributed to members of the security forces and whom the authorities had failed to provide with protection (17 February 1993); and concerning the incidents of 15 April 1993, when members of the DSP indiscriminately and without provocation opened fire on a peaceful crowd in front of the residence of the Prime Minister, as well as massacres of Banyarwanda in North Kivu (27 April 1993).

658. The Special Rapporteur also intervened on behalf of Thassinda Kilolo, who had reportedly been abducted by members of a special team of the DSP known as the "owls", as well as his two sisters, Thassinda Malaku and Thassinda Misaku, who had been the victims of several attempted abductions and death threats from members of the security forces (24 September 1993); Félix Mbayi Kalombo, adviser to Prime Minister Tchisekedi, who was the victim of an attempt on his life as he was being treated at the hospital for wounds inflicted in an attack against his home, allegedly carried out by members of the security forces; and Lambert Tshitshimbi Katombe, also an adviser to the Prime Minister, who had reportedly been followed by security agents (19 October 1993).

659. The Special Rapporteur also transmitted to the Government of Zaire one specific case which was said to have occurred in Kinshasa, when members of the DSP reportedly killed at least 15 civilians including an 11-year-old child and a pregnant woman, in retaliation for the murder of one of their members.

Communications received

660. At the time of the preparation of the present report, no communications had been received from the Government of Zaire.

Observations

661. The Special Rapporteur is deeply concerned at the alarming reports of large-scale and grave human rights violations reported to occur in a climate of violent anarchy prevailing in Zaire. These reports indicate that the people of Zaire are paying a high price in the struggle for political power between President Mobutu and his opponents, and that the country is sliding towards a total breakdown of law and order. The Special Rapporteur urges those in control of the security forces to ensure that human rights violations will not be tolerated under any circumstances, that abuse of force will be avoided, that a strict chain-of-command control will be maintained, and that the perpetrators of human rights violations will be held criminally responsible for their acts.

662. The Special Rapporteur is appalled at the upsurge of inter-communal violence sparked by political instability, particularly in the regions of Shaba and North Kivu. A pattern of inter-ethnic conflicts in a climate of total impunity seems to be emerging in the region, whereby events and developments in any of the neighbouring States of Rwanda, Burundi and Zaire have strong repercussions in the others (see also the chapters on Burundi and Rwanda). The Special Rapporteur will continue to pay particular attention to this region.

Zimbabwe

Communications sent

663. The Special Rapporteur communicated to the Government of Zimbabwe allegations he had received concerning alleged extrajudicial, summary or

arbitrary executions of six persons. In the cases of the reported killing by the military of Edwin Bhundani Nleya and the death in an army prison, reportedly as a consequence of torture, of Shepard Chisango, the authorities were said not to have fulfilled their obligation to carry out investigations with a view to identifying and punishing those responsible. Four persons, among them a 10-year-old boy, were allegedly killed when police opened fire against demonstrators in Chakari.

Communications received

664. At the time of the preparation of the present report, no communications had been received from the Government of Zimbabwe.

V. QUESTIONS RELATING TO THE RIGHT TO LIFE IN THE FORMER YUGOSLAVIA

665. After participating in two missions to the former Yugoslavia (see E/CN.4/1993/46, chapter V), the Special Rapporteur continued his cooperation with the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, Mr. Tadeusz Mazowiecki. On behalf of Mr. Mazowiecki, he visited Croatia from 15 to 20 December 1992 to carry out preliminary investigations into allegations received indicating that victims of war crimes might be buried in various mass graves in the former Yugoslavia, particularly in Croatia. In the initial investigation and assessment of the sites visited during his mission, the Special Rapporteur was assisted by a member of a team of forensic experts examining a site at Ovcara on behalf of the Commission of Experts established pursuant to Security Council resolution 780 (1992). A summary of the Special Rapporteur's findings, as well as a number of practical, legal and political considerations, were included in Mr. Mazowiecki's report to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/50, annex I).

666. During 1993, the Special Rapporteur has received very little direct information regarding violations of the right to life in the former Yugoslavia. Since the appointment of Mr. Mazowiecki after the first special session of the Commission on Human Rights in August 1992, information regarding such allegations has been centralized and channelled to his staff in Geneva and his staff based in the field office established in Zagreb. This was done both to avoid duplication of efforts and to ensure a comprehensive approach to the former Yugoslavia, as well as to maximize the specialization which the human rights crisis in the former Yugoslavia requires.

667. It is perfectly clear to the Special Rapporteur that the amount of information received by his mandate bears no relation whatsoever to the level of violations of the right to life which have occurred, and continue to occur, in the former Yugoslavia, and particularly in Bosnia and Herzegovina. The ongoing conflicts in Bosnia and Herzegovina and the humanitarian emergency there call for extraordinary responses. The Special Rapporteur's usual procedures for communicating allegations by urgent appeals or letters to the Government concerned cannot usefully be applied to a country where it is estimated that two thirds of the territory are not under the control of the recognized Government.

668. The Commission on Human Rights, at its second special session in October 1992, endorsed Mr. Mazowiecki's call for a number of his staff to be permanently based in the former Yugoslavia (resolution 1992/S-2/1). Thus since the forty-ninth session of the Commission on Human Rights, the Special Rapporteur on the situation of human rights in the former Yugoslavia has presented four periodic reports to the Commission (E/CN.4/1994/3, 4, 6, 8). These reports refer extensively to grave violations of the right to life.

669. In his most recent report, which comprises the situation of human rights in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (E/CN.4/1994/47), Mr. Mazowiecki once again reported massacres of civilians, ethnically inspired killings of individuals, deaths of civilians as a result of indiscriminate shelling, the use of prisoners-of-war as human shields or

forced labourers on the front lines by all parties to the conflicts in Bosnia and Herzegovina and in Croatia. With regard to the situation of the right to life in the Federal Republic of Yugoslavia, Mr. Mazowiecki presented disturbing information of deaths of Albanians in police custody in Kosovo as a result of torture as well as a sharply increased mortality rate as a consequence of the catastrophic health situation.

670. The Special Rapporteur would like to add his voice to the appeals and requests addressed by Mr. Mazowiecki to the parties to the conflict in the former Yugoslavia with a view to ensuring full respect for the right to life, particularly of the civilian population. The Special Rapporteur strongly supports Mr. Mazowiecki's call on the international community for generous and speedy humanitarian aid so as to allay to the maximum extent possible the humanitarian disaster in Bosnia and Herzegovina. He also wishes to endorse Mr. Mazowiecki's request that all those responsible for human rights abuses, and, in particular, violations of the right to life in all areas of the former Yugoslavia, be held accountable and punished.

VI. CONCLUSIONS AND RECOMMENDATIONS

671. As in the past, at the end of a reporting cycle the Special Rapporteur finds himself compelled to report that extrajudicial, summary or arbitrary executions have not ceased to occur. On the contrary, armed struggles for power and territorial control have continued unabated in many parts of the world, often disguised as ethnic, religious or nationalistic conflicts. The former Yugoslavia, Angola, Liberia, Somalia, Rwanda and Burundi, Azerbaijan and Tajikistan are only a few examples that come to mind, where violations of the right to life, in particular of the civilian population, take place on a massive scale. The Special Rapporteur has also continued to receive increasing numbers of allegations of extrajudicial, summary or arbitrary executions and death threats attributed to government forces or groups cooperating with them or enjoying the acquiescence of the authorities.

672. The Special Rapporteur responded to these continuing violations of the right to life with a marked increase in the range of his activities (see above, chap. IV). On the basis of the information that has come before him, the Special Rapporteur focused his attention on two main areas of concern: violations of the right to life in the context of capital punishment and impunity enjoyed by perpetrators of violations, which has important implications for almost all other types of extrajudicial, summary or arbitrary executions, particularly for their prevention. In compliance with the requests made to him by the Commission on Human Rights (see chap. I), the Special Rapporteur also paid special attention to a number of other issues. This chapter contains his conclusions and recommendations regarding these questions as well as on a number of procedural points and other matters of concern to the Special Rapporteur.

A. Capital punishment

673. In its resolution 1993/71, the Commission on Human Rights requested the Special Rapporteur to "continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto".

The desirability of abolition of the death penalty

674. Capital punishment is not yet in itself prohibited under international law. However, in its comments on article 6 of the Covenant, the Human Rights Committee observed that this provision "also refers generally to abolition in terms which strongly suggest that abolition is desirable (paras. 6 (2) and (6)). The Committee concludes that all measures of abolition should be considered as progress in the enjoyment of the right to life (...)." 1/ The desirability of abolition was also expressed repeatedly by the General Assembly. 2/ Moreover, in re-approving article 6, paragraph 6, of the International Covenant on Civil and Political Rights, the Economic and Social Council, in its resolution 1984/50, adopted the Safeguards

guaranteeing protection of the rights of those facing the death penalty, on the understanding that they should not be invoked to delay or to prevent the abolition of capital punishment.

675. Article 6, paragraph 2, of the Covenant provides that "in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes... ". The General Assembly has referred to article 6 as forming part of the "minimum standard of legal safeguards" for the protection of the right to life in a number of resolutions concerning summary or arbitrary executions, most recently in paragraph 12 of resolution 45/162 of 18 December 1990. In its comments on article 6 of the Covenant, the Human Rights Committee stated that "the expression 'most serious crimes' must be read restrictively to mean that the death penalty should be a quite exceptional measure", limited to offences with lethal or "other extremely grave consequences". 3/

676. The Special Rapporteur has received with concern reports of the extension of the scope of capital punishment to offences previously not punishable by death in a number of countries. In Bangladesh, the Curbing of Terrorist Activities Act 1992 reportedly extends the scope of the death penalty to a number of offences under the heading of "terrorism", which had previously been sanctioned with imprisonment. In China, the range of capital offences has been broadened since the Chinese Penal Code came into force in 1979. Currently, some 65 criminal offences are punishable by death in China, including crimes such as "speculation", "corruption" or "bribery". Law No. 97 of 1992 significantly enlarged the number of capital offences in Egypt. In May 1991, Pakistan introduced a mandatory death penalty in cases of blasphemy and it was reported that the Government was planning to extend it to drug-related offences in August 1993. The new Peruvian Constitution, approved by referendum on 31 October 1993, widens the scope of capital punishment to cover crimes of terrorism and treason (see E/CN.4/1994/7/Add.2, paras. 74-78). In Saudi Arabia, two fatwas, in 1987 and 1988, extended the range of capital offences to a number of drug-related offences and to acts of "sabotage" or "corruption on earth" that "undermine security and endanger lives and public or private property". Previously, such offences were punishable by death only if loss of life was involved. According to reports recently received, a federal crime bill is currently being drafted in the United States of America which would extend the death penalty to 47 offences which, at present, are not punishable by death.

677. Loss of life is irreparable. The Special Rapporteur therefore strongly supports the conclusions of the Human Rights Committee and emphasizes that the abolition of capital punishment is most desirable. The scope of application of the death penalty should never be extended and the Special Rapporteur invites those States which have done so to reconsider.

Fair trial

678. All safeguards and guarantees for due process, both at pre-trial stages and during the actual trial before a court, as provided for by several international instruments such as the Universal Declaration of Human Rights (arts. 10 and 11), the International Covenant on Civil and Political Rights (arts. 9, 14 and 15), the Safeguards guaranteeing protection of all

those facing the death penalty as well as Economic and Social Council resolution 1989/65 on their implementation, must be fully respected in all cases, and especially where the life of the defendant is at stake.

679. In particular, proceedings leading to the imposition of capital punishment must conform to the highest standards of independence, competence, objectivity and impartiality of judges and juries. All defendants in capital cases must benefit from the fullest guarantees for an adequate defence at all stages of the proceedings, including adequate provision for State-funded legal aid by competent defence lawyers. Defendants must be presumed innocent until their guilt has been proven without leaving any room for reasonable doubt, in application of the highest standards for the gathering and assessment of evidence. All mitigating factors must be taken into account. A procedure must be guaranteed in which both factual and legal aspects of the case may be reviewed by a higher tribunal, composed of judges other than those who dealt with the case at the first instance. In addition, the defendants' right to seek pardon or commutation of the death sentence must be ensured.

680. During the past year, the Special Rapporteur received numerous and alarming reports about legislation and practice leading to the imposition and execution of death sentences where the defendants did not fully benefit from these guarantees and safeguards. Such reports concerned the following countries (for details see chap. IV): Algeria, Azerbaijan, Bangladesh, China, Comoros, Egypt, Iran (Islamic Republic of), Kuwait, Kyrgyzstan, Malawi, Malaysia, Nigeria, Pakistan, Peru, Saudi Arabia, Sierra Leone, South Africa, the Syrian Arab Republic, Tajikistan, Turkmenistan, United States of America, Uzbekistan, Yemen.

681. The Special Rapporteur is particularly concerned at reports indicating a tendency towards the establishment of special jurisdictions to speed up proceedings leading to capital punishment in certain cases, particularly in response to acts of violence committed by armed opposition groups. Such special courts often lack independence, for example, because the judges are accountable to the executive, or because they are military officers on active duty within the chain-of-command structure of the army. Time-limits which are sometimes set for the conclusion of the different trial stages before such special jurisdictions gravely affect the defendants' right to an adequate defence. Concerns have also been expressed at limitations on the right to appeal in the context of special jurisdictions. In some cases, the law establishing special courts also provides for an extension of the scope of capital offences. The Special Rapporteur notes that, as a general rule, the standards of due process and respect for the right to life before such jurisdictions are lower than in ordinary criminal proceedings. He wishes to refer, in this context, to the sections of this report on Algeria, Egypt, Kuwait, Malawi, Nigeria, Pakistan, Peru and the Syrian Arab Republic.

682. The Special Rapporteur wishes to refer to a recent judgement of the Judicial Committee of the Privy Council of the United Kingdom of Great Britain and Northern Ireland, wherein it held that the execution of a death sentence five years after it had been handed down would constitute cruel and inhuman punishment. Consequently, the death sentences of two prisoners in Jamaica who had been awaiting execution for more than five years were commuted to life imprisonment. The Supreme Court of Zimbabwe recently reached a similar

conclusion. While welcoming the decisions, the Special Rapporteur wishes to express concern that they might encourage Governments to carry out executions of death sentences more speedily. This might, in turn, affect defendants' rights to full appeal procedures, including new hearings if additional evidence is discovered even years later. The Special Rapporteur feels that these judgements should rather be interpreted in the light of the desirability of the abolition of capital punishment: if, as a first step, it is recognized that awaiting execution for five years constitutes in itself cruel and inhuman punishment, the second, towards the rejection of capital punishment as such, may be easier to take.

683. In summary, judicial errors can no longer be remedied once a death sentence has been carried out. The Special Rapporteur urges the Governments of all States in which the death penalty has not yet been abolished to ensure that proceedings which may lead to the imposition of the death penalty are conducted in accordance with the highest standards of due process and that defendants fully benefit from all safeguards and guarantees set forth in the pertinent international instruments.

684. The Special Rapporteur calls particularly on the Governments of Algeria, China, Egypt, the Islamic Republic of Iran, Kuwait, Malawi, Malaysia, Nigeria, Pakistan, Peru, the Syrian Arab Republic, Tajikistan and the United States of America to revise their legislation governing procedures for trials where the imposition of capital punishment is at stake so as to make them conform to the pertinent international instruments.

Special restrictions on the application of the death penalty

685. Article 6, paragraph 5, of the International Covenant on Civil and Political Rights stipulates that "sentence of death shall not be imposed for crimes committed by persons below eighteen years of age". A number of other international instruments also prohibit the capital punishment of juvenile offenders, in particular the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), and the Safeguards guaranteeing protection of the rights of those facing the death penalty. The reports received concerning the imposition and execution of death sentences in cases involving minors in Egypt, Pakistan and the United States of America are most disturbing. The Special Rapporteur is also deeply concerned at legislation allowing for death sentences for minors in Algeria, China and Peru.

686. Furthermore, international law prohibits the capital punishment of mentally retarded or insane persons, pregnant women and mothers of young children. In this context, the Special Rapporteur refers to allegations he has received concerning executions of mentally retarded persons in the United States of America.

687. The Special Rapporteur urges the Governments of Algeria, China, Egypt, Pakistan, Peru and the United States to consider which measures may be more suitable than the death penalty to promote rehabilitation and reinsertion into society of juvenile or mentally retarded offenders.

B. Impunity

688. Governments are obliged under international law to carry out exhaustive and impartial investigations into allegations of violations of the right to life, to identify, bring to justice and punish their perpetrators, to grant compensation to the victims or their families, and to take effective measures to avoid future recurrence of such violations. The first two components of this fourfold obligation constitute in themselves the most effective deterrent for the prevention of human rights violations. Conversely, if perpetrators may be certain that they will not be held responsible, such violations are most likely to continue unabated. The recognition of the duty to compensate victims of human rights violations, and the actual granting of compensation to them, presupposes the recognition by the Government of its obligation to ensure effective protection against human rights abuses on the basis of the respect for the fundamental rights and freedoms of every person.

689. Economic and Social Council resolution 1989/65 of 24 May 1989 on the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions sets forth in detail the aforementioned obligations. In addition, as regards deaths as a result of excessive use of force, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provide that arbitrary or abusive use of force and firearms by law enforcement officials is to be punished as a criminal offence under national law (principle 7). In May 1991, the Crime Prevention and Criminal Justice Branch of the United Nations Centre for Social Development and Humanitarian Affairs published a document of major importance for guaranteeing the right to life. Entitled Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (ST/CSDHA/12), it lays down procedures for conducting investigations into extra-legal executions or killings.

690. In practice, however, human rights violations and, in particular, violations of the right to life continue to be perpetrated with impunity in very many countries. The reports and allegations that have come before the Special Rapporteur indicate that grave breaches of the above-mentioned obligation occur at all levels.

691. In some cases, the basis for impunity may be legislation which exempts perpetrators of human rights abuses from prosecution. The Special Rapporteur received reports about amnesty laws in El Salvador and Mauritania. He was also informed about provisions granting members of the security forces immunity from prosecution in Bangladesh (Bangladesh Penal Code) and South Africa (Further Indemnity Act). In this context, the Special Rapporteur wishes to emphasize that "under no circumstances ... shall blanket immunity from prosecution be granted to any person allegedly involved in extra-legal, summary or arbitrary executions" (principle 19 of the Principles on the Effective Prevention and Investigation of Extra-legal, Summary or Arbitrary Executions). Even if, in exceptional cases, Governments may decide that perpetrators should benefit from measures that would exempt them from or limit the extent of their punishment, their obligation to bring them to justice and hold them formally accountable remains, as does the obligation to carry out prompt, thorough and impartial investigations, grant compensation to the victims or their families and adopt effective preventive measures for the

future. The Special Rapporteur appeals to all Governments concerned to revise any legislation as may be in force exempting those involved in violations of the right to life from prosecution.

692. However, in many countries where the law provides for the prosecution of human rights violators, impunity is the practice. Often, no investigation at all is initiated into cases of alleged violations of the right to life. Authorities do not react to complaints filed by the victims, their families or representatives, or by international organs, including the Special Rapporteur. In this context, it should be recalled that Governments are under obligation to initiate inquiries into allegations ex officio as soon as they are brought to their attention, particularly where the alleged violation of the right to life is imminent and effective measures of protection must be adopted by the authorities. Also, legislation should permit victims or their families or representatives to initiate such proceedings. The Special Rapporteur therefore calls on all Governments to enact legislation enabling the competent authorities to fulfil their obligations under international law irrespective of whether or not the victims are able to provide evidence to identify the authors of human rights abuses against them, and to ensure that these obligations are fully implemented in practice.

693. In other instances, victims or witnesses are said to be too afraid to complain to the authorities, particularly where they perceive to be under threat from exactly the same authorities that are supposed to protect them. The Philippine Human Rights Commission, for example, repeatedly informed the Special Rapporteur that persons were too afraid to testify or file complaints before the authorities. Disturbing reports about death threats against, or even extrajudicial killings of persons who had witnessed human rights violations and, in some cases, testified before investigating organs were received concerning Brazil, Colombia, Guatemala and Peru. In other cases, the State organs which should carry out the investigations were themselves under threat, as was reported with regard to public prosecutors in Peru or the judiciary in Chad. The Special Rapporteur urges all Governments to ensure effective protection for all those who participate, as witnesses, prosecutors, judges, court officials or in any other capacity, in investigations of alleged human rights violations.

694. There are also countries where there is no independent judiciary that could carry out such investigations, or where the justice system simply does not work in practice. Cambodia was reported to the Special Rapporteur as an example in this regard. In Peru and Rwanda, too, the civilian justice system does not function properly. In such cases, reforms should be carried out to enable the judiciary to fulfil its functions. It should count on an adequate number of judges, court officials and prosecutors and sufficient material. The independence of the judges should be guaranteed by law and fully respected in practice.

695. In the absence of a functioning civilian justice system, or in cases which warrant particular treatment because of their special nature or gravity, Governments may envisage establishing special commissions of inquiry. They must fulfil the same requirements of independence, impartiality and competence as judges in ordinary courts. The results of their investigations should be made public, and their recommendations should be binding for the authorities.

The Special Rapporteur is concerned that the establishment of such commissions is sometimes only announced but not put into practice, as was reported in the case of Chad; that recommendations made by such commissions are not or not always followed, such as in Mexico; or that such commissions do not fulfil the above-mentioned requirements and are, in reality, tools to evade the obligation to carry out thorough, prompt and impartial investigations into alleged violations of the right to life.

696. In other cases, investigations are initiated without, however, leading to the punishment of members of the security forces or paramilitary and other groups cooperating with them or acting with their acquiescence. Where perpetrators of such violations are brought to justice and sentenced, these sentences are often not proportionate to the gravity of the offences, as was reported in the case of the Santa Cruz massacre in East Timor or the killings of peasants in Accomarca and Santa Bárbara in Peru (see E/CN.4/1994/7/Add.2, paras. 32 and 53). On other occasions, low-ranking members of security forces have been convicted and sentenced for having carried out human rights violations, while those in positions of command escaped their responsibility for having planned and ordered these violations. The Special Rapporteur calls on all Governments to prosecute all those involved in the planning and carrying out of alleged extrajudicial, summary or arbitrary executions, including those who, although in a position of authority, have not made any attempts to prevent them.

697. The problem of military jurisdiction over alleged perpetrators of human rights violations has once again been raised in this regard. Sometimes, the fact that the civilian justice system does not function properly is invoked by the authorities to justify trials before military tribunals. Ample information received by the Special Rapporteur indicates that, in practice, this almost always results in impunity for the security forces. The Special Rapporteur therefore once again appeals to all Governments concerned to provide for an independent, impartial and functioning civilian judiciary to deal with all cases of alleged violations of the right to life. The Special Rapporteur also calls on the authorities to ensure that the security forces fully cooperate with the civilian justice system in its efforts to identify and bring to justice those responsible for human rights violations.

698. The Special Rapporteur considers the implementation of Commission resolutions 1993/33 and 1992/24 to be a matter of high priority. In this regard, he would like to stress the need for expertise in forensic pathology, anthropology and archeology in order to conduct excavations of mass graves and examine human remains found therein. In this context, efforts to establish a standing team of internationally recognized experts in this field who could provide advice and assistance to national investigating organs should be continued.

699. The link between the effective investigation of human rights violations of the right to life and the prevention of their recurrence in the future cannot be over-emphasized. Consequently, the Special Rapporteur calls on all Governments to comply fully with their obligation under international law to ensure that thorough, prompt and impartial investigations are carried out into all allegations of the right to life and that all those involved in their

planning and execution be identified, brought to justice and punished in accordance with the gravity of the offence, regardless of any rank, office or position they may hold.

C. Allegations received and acted upon by the Special Rapporteur

Death threats

700. The Special Rapporteur received allegations concerning death threats or fear for the lives and physical security of more than 380 persons. He continues to view urgent appeals on behalf of those under threat as an essential part of his mandate. In the past year, he has transmitted urgent appeals with the aim of preventing loss of life to the Governments of: Argentina, Bangladesh, Brazil, Burundi, Chad, Ecuador, El Salvador, India, Indonesia, Iran (Islamic Republic of), Panama, Papua New Guinea, Paraguay, Peru, Philippines, Rwanda, South Africa, Sri Lanka, Togo, Turkey, Venezuela and Zaire. In almost all of these countries, the lives of human rights activists, members of the political opposition, trade unions, community workers, writers and journalists were reported to be at serious risk. The Special Rapporteur is particularly concerned about Colombia, where he intervened by sending 26 urgent appeals, and Guatemala, where he sent 25 urgent appeals. Furthermore, the Special Rapporteur noted with deep concern reports about the alleged execution, while in custody, of a prisoner in Azerbaijan, and the killing of two mothers of disappeared children in Brazil. In both cases, he had urged the authorities to ensure their protection. It is also most disturbing that in countries such as Brazil, Colombia, Guatemala, South Africa and Turkey, patterns of intimidation and threats seem to persist for years.

701. The Special Rapporteur urges all Governments to adopt effective measures, in accordance with the requirements of each particular case, to ensure full protection of those who are at risk of extrajudicial, summary or arbitrary execution. The Special Rapporteur calls on the authorities to conduct investigations into all instances of death threats or attempts against lives which are brought to their attention, regardless of whether or not any judicial or other procedures have been activated by those under threat.

Deaths in custody

702. The Special Rapporteur received numerous reports concerning deaths in custody in Azerbaijan, Cambodia and Sierra Leone. Such deaths were alleged to be the result of torture or other cruel, inhuman and degrading treatment in Bangladesh, Cuba, Ecuador, India, Indonesia, Israel, Mexico, Nepal, Peru, South Africa, Turkey and Yugoslavia. The Special Rapporteur also received allegations of deaths in custody due to medical neglect or otherwise untenable prison conditions in Cuba, Morocco and Togo. A particular form of death while in detention was reported, as in former years, in Myanmar, where Muslim villagers continue to be forced by the military to serve as porters and die after torture or simply because they are too weak to carry on.

703. The Special Rapporteur appeals to all Governments to ensure that conditions of detention in their countries conform to the Standard Minimum Rules for the Treatment of Prisoners and other pertinent international

instruments. He also urges them to make efforts to ensure full respect of the international norms and principles prohibiting any form of torture or other cruel, inhuman or degrading treatment. Prison guards and other law enforcement personnel should receive training so as to be familiar with these norms as well as the rules and regulations concerning the use of force and firearms to prevent escape or control disturbances. The Special Rapporteur also calls on the competent authorities to prosecute and punish all those who, through action or omission, are found responsible for the death of any person held in custody, in breach of the aforementioned international instruments.

Deaths due to abuse of force by law enforcement officials

704. The Special Rapporteur received a considerable number of allegations concerning violations of the right to life as a consequence of excessive or arbitrary use of force. Cases in this category were reported in Brazil, Cameroon, Chad, Chile, the Comoros, Egypt, Honduras, Israel and Venezuela. In Bangladesh, Cameroon, Chad, Chile, the Central African Republic, El Salvador, India, Lebanon, Malawi, Nepal, South Africa and Zaire, hundreds of people were reportedly killed by security forces using excessive force against participants in demonstrations and other manifestations. The Special Rapporteur was particularly shocked by reports about deliberate use of firearms against young children by Israeli security forces and Brazilian military police.

705. The Special Rapporteur calls on all Governments to ensure that the security forces receive thorough training in human rights matters and, in particular, with regard to the restrictions on the use of force and firearms in the discharge of their duties. Such training should include methods of keeping crowds of people under control without resorting to excessive force. Full and independent investigations must be carried out into alleged deaths due to abuse of force, and all law enforcement officials responsible for violations of the right to life must be held accountable.

Violations of the right to life during armed conflicts

706. The Special Rapporteur received increasing numbers of reports concerning deaths as a consequence of armed conflicts, both international and internal, in various parts of the world. Massive violations of the right to life were said to have been committed against combatants who had been captured, or after they had laid down their arms, and particularly civilians. This was reported, for example, in Angola, Azerbaijan, Cambodia, Chad, Djibouti, Liberia, Papua New Guinea, Sierra Leone, Somalia, Sri Lanka, the Sudan, Tajikistan, Turkey and the conflict areas in the former Yugoslavia. Thousands of people were reportedly killed, either as a direct consequence of the hostilities - through deliberate and indiscriminate shelling of residential areas, often with heavy weaponry including aerial bombardments, and deliberate executions - or indirectly, as a result of sieges, blocking off water, food and medical supplies, refusal to evacuate sick or wounded persons. Children, elderly and those in poor health are particularly affected by such measures.

707. The Special Rapporteur calls on all parties to conflicts, international or internal, to respect the norms and standards of international human rights and humanitarian law which protect the lives of the civilian population and those combatants who are captured or lay down their arms. He also appeals to all those involved in armed conflicts to allow convoys of humanitarian aid to reach their destinations as well as to allow the evacuation of the wounded, elderly persons and children. All those responsible for violations of the right to life in situations of armed conflicts must be held accountable. In this context, the Special Rapporteur particularly wishes to endorse the appeals for respect for the right to life made by the Special Rapporteurs on the situation of human rights in the Sudan and, on repeated occasions, by the Special Rapporteur on the human rights situation in the territory of the former Yugoslavia.

708. In this context, the Special Rapporteur wishes to refer to the role of the United Nations in situations of armed conflict. Increasingly often called upon to exercise peace-keeping tasks, United Nations personnel in many countries are operating under very difficult and often dangerous conditions. A high number of United Nations staff have on many occasions risked, and lost, their lives. However, in the recent past reports have been received indicating that members of United Nations forces were themselves involved in extrajudicial, summary or arbitary killings in Somalia. The Special Rapporteur is of the view that, as each State is bound under international law to respect these standards, an organ representing States in their collectivity has at least the same degree of responsibility. A human rights component should be an integral part of all peace-keeping and observer missions. As such missions under the auspices of the United Nations multiply, it may be desirable to envisage the institution of an organ within the United Nations, or within each peace-keeping or observer mission, to investigate human rights abuses by members of such missions and hold their authors responsible. Provision should also be made to grant compensation to the victims of such abuses or, in the case of extrajudicial killings, their families. With a view to preventing such incidents, all members of peace-keeping and observer missions should receive thorough training in human rights matters as well as in mediation and conflict resolution.

Violations of the right to life in the context of communal violence

709. The Special Rapporteur would once again like to draw the attention of the international community to the problem of communal violence, understood as acts of violence committed by groups of citizens of a country against other groups. In Burundi, Nigeria, Rwanda and Zaire, where violent confrontations were reported between different ethnic groups, government forces allegedly not only did not intervene to stop the violence but actively supported one side in the conflict, or even began it. In other instances, Governments, for example those of Bangladesh and Sri Lanka, denied their responsibility for killings, asserting that they occurred in the context of communal violence. Such conflicts, if allowed to continue, may degenerate into genocide. Effective steps should therefore be taken by Governments of countries where acts of communal violence occur to curb such disturbances at an early stage. The Special Rapporteur also strongly appeals to all Governments to refrain from supporting groups, on ethnic or other grounds, either actively or by simply tolerating acts of violence committed by them. On the contrary, efforts

should be made towards reconciliation and peaceful coexistence of all parts of the population, regardless of ethnic origin, religion or any other distinction. Mass communication media and campaigns of education and information promoting mutual respect should be used in this regard. Furthermore, all acts of incitement to hatred or violence must be punished.

Expulsion of persons to a country where their life is in danger

710. The Special Rapporteur received reports about the imminent extradition of one or more persons to countries where their lives might be at risk. All Governments should take due notice of the norms and principles contained in international instruments that refer to this particular question. They should refrain from extraditing a person in circumstances where his or her safety is not fully guaranteed.

Rights of the victims

711. As stated earlier, the recognition of the right of victims or their families to receive adequate compensation is both a recognition of the State's responsibility for the acts of its organs and an expression of respect for the human being. Granting compensation presupposes compliance with the obligation to carry out an investigation into allegations of human rights abuses with a view to identifying and prosecuting their perpetrators. Financial or other compensation provided to the victims or their families before such investigations are initiated or concluded, however, does not exempt Governments from this obligation. The Special Rapporteur notes with concern that, with the exception of Nepal, no Government provided him with information about any such compensation provided to victims or their dependants. The Special Rapporteur urges States to make pertinent provisions under national legislation and set up funds for those who have suffered damage as a consequence of extrajudicial, summary or arbitrary execution or attempted execution.

D. Issues of special interest to the Special Rapporteur

Freedom of opinion and expression

712. More than 700 cases which were brought to the attention of the Special Rapporteur during the past year concerned alleged violations of the right to life involving a breach of the right to freedom of opinion and expression, peaceful assembly and association. Extrajudicial killings as a result of abuse of force against demonstrators and participants in other peaceful manifestations have been referred to earlier. The Special Rapporteur is deeply concerned at the large numbers of reported death threats, assassination attempts and extrajudicial executions of members of legal political opposition parties, trade unions, student movements and community organizations, human rights groups and activists, as well as journalists, writers and persons assisting indigenous people and peasants in Argentina, Brazil, Cambodia, Chad, Colombia, El Salvador, Equatorial Guinea, Guatemala, Haiti, India, Malawi, Paraguay, Peru, the Philippines, Rwanda, South Africa, Turkey and Zaire.

713. The Special Rapporteur is particularly preoccupied by reports of "hit squads" or "death squads" linked to the authorities, which are said to be instruments of violent repression of any political opposition. Such groups, often said to be composed of members of the security forces, allegedly carry out orders to intimidate or eliminate persons perceived as a threat to Governments or certain political parties. Disturbing allegations to this effect were received concerning Brazil, Colombia, Guatemala, El Salvador, Haiti, Kenya, Peru, South Africa and Turkey. Agents linked to the security forces of the Islamic Republic of Iran were said to be responsible for the killing of political opponents in Italy, Pakistan and Turkey.

714. The Special Rapporteur calls on all Governments to fully respect the right of all persons to freedom of opinion and expression, peaceful assembly and association, as guaranteed in the pertinent international instruments. He urges the authorities of those countries in which death squads or similar structures are alleged to exist to carry out full investigations with a view to eliminating such groups and identifying and prosecuting their members, as well as all those under whose orders they are found to operate.

Violations of the right to life of women

715. In 168 cases, the victims of reported violations of the right to life were women. As stated earlier, this figure does not necessarily reflect the actual proportion of women among those on whose behalf the Special Rapporteur intervened. This is due to the fact that several cases concerned alleged extrajudicial, summary or arbitrary executions of groups of unidentified civilians, where it was not specified how many women were among those killed. In other cases, the Special Rapporteur could not discern the sex of a person simply by the name and the source did not indicate whether the allegation concerned a man or a woman.

716. However, women make up a relatively small percentage of purported victims of extrajudicial, summary or arbitrary executions or death threats reported to the Special Rapporteur. Women appear not to be particularly targeted for reasons of their sex. This may partly be explained by the fact that women continue to play a small role in the political and economic life of many countries. The underrepresentation of women in positions of influence, for example in political parties or trade unions, or in professions such as law or journalism, means that they are also less exposed to acts of violence at the hands of Governments that may perceive them as a threat. On the other hand, in areas where women are actively participating in public life, they do not seem to be in a different position from their male counterparts, as may be illustrated by the following cases acted upon by the Special Rapporteur in the past year: Peruvian journalist Cecilia Valenzuela, allegedly threatened with death by the security forces; human rights activists Hebe de Bonafini and journalists Magdalena Ruiz Guiñazú, Mónica Cahen d'Anvers and Graciela Guadalupe in Argentina; missionary Elsa Rosa Zotti, lawyers Valdenia Brito, Katia Costa Pereira and Cecilia Petrina de Carvalho, as well as mothers of disappeared children pressing for an investigation into their abduction in Brazil; human rights activists Nineth de Montenegro, Rosalina Tuyuc, Angela María Contreras Chávez and Rigoberta Menchú in Guatemala; lawyers Mirna Perla de Anaya in El Salvador and Gloria Estrago in Paraguay; as well as Leyla Zana, Member of Parliament in Turkey.

Armed groups that spread terror among the population and drug traffickers

717. Violence by armed opposition groups constitutes a serious problem in a number of countries: the situations in Algeria, Colombia, Egypt, Guatemala, parts of India, Myanmar, Peru, the Philippines, Sri Lanka and Turkey are well-known examples in this regard. The Special Rapporteur wishes to express his most profound repugnance at the acts of violence committed by these armed opposition groups, which are responsible for grave human and material losses in these countries. He fully understands that the Governments concerned and their security forces face an extremely difficult task in attempting to curb violence by such groups, in particular where they resort to terrorist methods, indiscriminately targeting civilians. However, the Special Rapporteur is concerned at reports according to which operations by the security forces aimed at fighting such armed opposition groups very often result in extrajudicial, summary or arbitrary executions. Algeria and Egypt, for example, have executed death sentences against persons convicted of terrorism after trials which fall short of the international standards for the protection of those facing capital punishment. In all other aforementioned countries, security forces allegedly extrajudicially executed civilians whom they perceived to be collaborators or sympathizers of the armed opposition groups. In Colombia, Guatemala and Sri Lanka it was also reported that residential areas were bombarded by the military. In a number of countries, where drug traffickers are also said to be responsible for killings of members of the security forces and civilians. According to the information received, drug traffickers in Colombia, Costa Rica and Peru have increased their influence by establishing links with armed opposition groups.

718. In this context, the Special Rapporteur wishes to emphasize that the right to life is absolute and must not be derogated from, even under the most difficult circumstances. This means that Governments must respect the right to life of all persons, including members of armed groups that demonstrate their total disrespect for the lives of both State representatives and civilians. The Special Rapporteur urges the Governments of all countries where such groups are active to ensure that counter-insurgency operations are conducted in a way so as to minimize the loss of lives. Security forces should receive proper training in this regard, and excessive use of force should be sanctioned.

Civil defence forces

719. In several countries, civilians, particularly in rural and/or remote areas, have formed groups of self-defence in situations where they feel that their lives or property are threatened. While such threats may emanate from common criminality, for example cattle thieves, civil defence forces are frequent in areas where armed opposition groups operate. Often, they are supported or even set up by the security forces and integrated into the Governments' counter-insurgency strategy. This was reported to be the case, for example, with the Bangladesh Rifles and Ansar Guards in Bangladesh; the civil self-defence patrols (PAC) in Guatemala, the rondas campesinas and

comités de defensa civil in Peru; the Citizen's Armed Forces Geographical Units (CAFGUs) in the Philippines; or the Kontrgerilla and Village Guards in Turkey. The Special Rapporteur received numerous reports about extrajudicial, summary or arbitrary executions committed by members of such groups, either in cooperation with units of the security forces or with their acquiescence. With very few exceptions, they were said to enjoy impunity for their actions. Often, the victims of such killings were said to be peasants suspected of being members or sympathizers of the armed opposition because they refused to join the, ostensibly voluntary, civil defence groups.

720. The Special Rapporteur appeals to the Governments of all countries where such civil defence structures exist to ensure full respect of human rights by the members of these groups. In particular, they should be trained to act in conformity with the restrictions on the use of force and firearms for law enforcement officials. All arms used by such groups, particularly if provided by the military, should be registered and their use subjected to strict control. All abuses should be punished, and effective measures should be taken to prevent their occurrence. Furthermore, no one should be forced to participate in civil defence groups.

Right to life and administration of justice

721. Respect for human rights within the administration of justice is of relevance to the Special Rapporteur's mandate in the field of capital punishment. In this context, the Special Rapporteur wishes to refer to paragraphs 673 to 687 above, concerning the right of defendants in capital cases to benefit fully from all guarantees of due process. In addition, the Special Rapporteur takes fair trial requirements into account when he evaluates proceedings that lead to the conviction and punishment of perpetrators of violations of the right to life. The Special Rapporteur appeals to all Governments to provide for legislation governing trial procedures in full conformity with the safeguards and guarantees embodied in the pertinent international instruments. He also urges all Governments to ensure that these safeguards and guarantees are fully ensured in practice. Effective protection should be ensured for all those forming part of the justice system. Particular attention should be given to the security of judges, prosecutors and lawyers where they may face threats or even attempts against their lives in the context of terrorist violence or corruption among political leaders.

Violations of the right to life of minors, particularly "street children"

722. The Special Rapporteur is deeply concerned at reports about violations of the right to life of minors and, in particular, children and adolescents without homes. Death threats against, and extrajudicial killings of "street children" have been reported in Brazil, Colombia and Guatemala. Reports of attacks against those who provide this particularly vulnerable group with shelter and education programmes, for example the collaborators of Casa Alianza in Guatemala or persons linked with the church in Brazil, are also

very disturbing. The Special Rapporteur also wishes to express deep concern for violations of the right to life of minors in armed conflicts. Children are among those who suffer most from lack of food and medicine as a result of deliberate blocking of humanitarian aid and assistance in conflict areas. They were also said to have died in large numbers as victims of indiscriminate attacks against residential areas. In addition, the Special Rapporteur received numerous reports of incidents in which children, even very young ones, were deliberately shot by members of the security forces, for example in the Occupied Territories or in Sri Lanka. As regards the question of capital punishment for minors, see above, paragraphs 685-687.

723. The Special Rapporteur calls on all Governments to ensure full respect for the right to life of children. He urges Governments in countries where children are forced to live in the streets to provide them with food, shelter and education programmes and to effectively protect them from violence in any form.

E. Procedural aspects

724. The Special Rapporteur wishes to thank all those, both individuals and non-governmental organizations, who have provided him with information and support in the discharge of his mandate. He also wishes to express his appreciation for the cooperation he received from a number of Governments, in particular those who have invited him to carry out visits to their countries. The Special Rapporteur regrets that a number of Governments did not supply him with any of the information he requested.

725. The Special Rapporteur would also like to thank all other United Nations mechanisms and procedures for the protection of human rights from whose cooperation he benefited during the past year and, in particular, the Special Rapporteur on the question of torture, the representative of the Secretary for internally displaced persons and the Committee on the Rights of the Child. The Special Rapporteur also wishes to thank the ad hoc Working Group of Experts on Southern Africa for its invitation to participate in their mission to Botswana and Zimbabwe in August 1993.

726. As stated earlier, the Special Rapporteur received, and transmitted to 73 Governments, allegations of the right to life concerning more than 3,700 persons. In 217 urgent appeals he urged the competent authorities to ensure effective protection of persons whose lives were feared to be at risk. This constitutes an increase of almost 50 per cent, as compared with the number of urgent appeals sent in 1992. In over 90 letters, the Special Rapporteur asked Governments to fulfil their obligation under international law to investigate human rights violations, bring to justice those responsible and grant compensation to the victims. The Special Rapporteur made an effort to transmit these allegations to the Governments earlier in the year to allow for more time to reply, as announced in his report to the Commission on Human Rights at its forty-ninth session. The Special Rapporteur believes that the

initiation of the follow-up procedure, as described in chapter II of this report, constitutes an important new element in the working of his mandate. The Special Rapporteur also hopes that his visits to the former Yugoslavia, Rwanda and Peru, as well as his participation in numerous public and private events, may contribute to promoting respect for the right to life and awareness of United Nations human rights procedures and mechanisms.

727. It has become evident, however, that unless the resources of the Secretariat are increased considerably, it will be impossible to assure the day-to-day work of the mandate. The Special Rapporteur continues to count on two staff members at the Centre for Human Rights, only one of them full-time. The amount of work involved in the assessment of the incoming information, almost daily urgent appeals, thorough follow-up, preparation of missions, etc. would require at least three staff members and one secretary working exclusively on the mandate. The Special Rapporteur hopes that the strengthening of the resources of the Secretariat announced at the World Conference on Human Rights in Vienna in June 1993 will soon be put into practice.

728. While appreciating the opportunity provided at the World Conference to meet with other special rapporteurs, representatives and members of working groups of the Commission on Human Rights for an exchange of views and a discussion on issues of common interest, and to present a common declaration to the plenary of the Conference, the Special Rapporteur regrets that it was not possible to present these concerns before the drafting committee for the Vienna Declaration and Programme of Action. The scant attention given to the problem of violations of the right to life in that document is disappointing. The Special Rapporteur feels that the scale and gravity of extrajudicial, summary or arbitrary executions in many parts of the world would have justified a special heading in the Programme of Action.

F. Prevention

729. During his visits to the former Yugoslavia, Rwanda and Peru, the Special Rapporteur could clearly recognize the enormous, and irreparable, loss of lives in armed conflicts and other situations of internal violence. By establishing the facts and trying to determine the causes for such violence in these countries, it may be possible to discern ways of reducing the extent of violations of the right to life there and preventing their occurrence in other situations. In this context, it is most important to learn to notice signs of incipient conflict situations that may, if allowed to develop, degenerate into humanitarian and human rights crises with very severe consequences. All internal mechanisms for the peaceful solution of such conflicts at the earliest stage should be strengthened. When a country tries to enact such mechanisms, or where there exists a grave humanitarian or human rights crisis, the international community should make every effort to assist with a view to re-establishing peace and preventing a new crisis. Wherever this entails an international peace-building or peace-keeping operation, human rights should be a central component.

730. In all situations, whether armed conflict or not, the main question to be addressed with a view to prevention of violations of the right to life is the treatment of their authors: impunity is the key to the perpetuation of human rights violations, including extrajudicial, summary or arbitrary executions. Putting an end to impunity requires a genuine will to recognize and enact the safeguards and guarantees for the protection of the right to life of every person. The Special Rapporteur calls once again on all Governments to comply with their obligation under international law to investigate all instances of alleged violations of the right to life, to prosecute and punish their perpetrators and to grant adequate compensation to the victims or their families. The Special Rapporteur also appeals to the international community to continue and reinforce its efforts to curb the phenomenon of extrajudicial, summary or arbitrary executions by putting into practice the international standards already existing, as well as improving them where shortcomings are identified. Finally, the Special Rapporteur reiterates his readiness to provide his full collaboration and assistance in this cause of common concern.

Notes

1/ A/37/40, annex V, general comment 16 (6), para. 6.

2/ For example, in resolutions 2857 (XXVI), 2393 (XXIII) and 39/118.

3/ A/37/40, annex V, general comment 6 (16), para. 7.